

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**REGULATED INDUSTRIES**  
**Senator Bradley, Chair**  
**Senator Margolis, Vice Chair**

**MEETING DATE:** Wednesday, January 21, 2015  
**TIME:** 9:00 a.m.—12:00 noon  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Bradley, Chair; Senator Margolis, Vice Chair; Senators Abruzzo, Bean, Braynon, Diaz de la Portilla, Flores, Latvala, Negron, Richter, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Introduction of Committee Members and Staff		Presented
2	<b>SB 2</b> Sobel (Identical H 129)	Greyhound Racing Injuries; Citing this act as the "Victoria Q. Gaetz Racing Greyhound Protection Act;" requiring injuries to racing greyhounds to be reported on a form adopted by the Division of Pari-mutuel Wagering in the Department of Business and Professional Regulation within a certain timeframe; exempting injuries to certain animals from reporting requirements, etc.  RI      01/21/2015 Favorable FP	Favorable Yeas 11 Nays 0
3	Staff Presentation on the three tier alcoholic beverage regulation system and malt beverage regulation in Florida		Presented
4	Workshop, Discussion, and Public Testimony on the Regulation of Malt Beverages in Florida, including the size and type of malt beverage containers and malt beverage tastings on licensed premises		Presented
5	Other Related Meeting Documents		

**NO MATERIALS ARE  
AVAILABLE AT THIS  
TIME**

**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 Regulated Industries

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BILL: SB 2

INTRODUCER: Senator Sobel and others

SUBJECT: Greyhound Racing Injuries

DATE: January 21, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<b>Favorable</b>
2.	_____	_____	<u>FP</u>	_____

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## I. Summary:

SB 2 requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (department), of all injuries to racing greyhound dogs that occur while the dogs are on a racetrack. If an injury occurs at a location other than a racetrack, or during transportation, then the injury report must be prepared and signed under oath by a greyhound owner, trainer or kennel operator who has knowledge of the injury.

Reporting is required within 7 days after the date the injury occurred or is believed to have occurred. The reports are public records that must be maintained for 7 years. False statements in an injury report or the failure to report an injury subjects licensees of the department to disciplinary action under pari-mutuel, regulatory, and professional practice laws. The requirement to report injuries to racing greyhound dogs does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

The Department of Business and Professional Regulation estimates the fiscal impact to that agency from a low of \$60,727 to a high of \$425,163 depending on the number of reports and investigations conducted by the Department.

## II. Present Situation:

As of November 24, 2014, there were 39 pari-mutuel permitholders with operating licenses in Florida, operating at 12 greyhound tracks, 6 jai alai frontons, 5 quarter horse tracks, 3 thoroughbred tracks, and 1 harness track.<sup>1</sup> Of the 20 greyhound racing permitholders with

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<sup>1</sup> See Pari-Mutuel Wagering Permitholders With 2014-2015 Operating Licenses map at <http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2014-2015-OperatingLicenses--2014-11-24.pdf> (last visited Jan. 19, 2015).

operating licenses during 2013-2014, three permitholders conducted races at leased facilities.<sup>2</sup> Five pari-mutuel facilities have two permits operating at those locations.<sup>3</sup> One permitholder's operating license was suspended late in 2014,<sup>4</sup> so there are now 19 greyhound racing permitholders with operating licenses.<sup>5</sup>

Racing greyhounds are registered with the National Greyhound Association and are used in racing at a pari-mutuel facility, or have been used, bred, raised, or trained to be used for such racing.<sup>6</sup> According to the division, Florida is the leader in greyhound racing in the United States.<sup>7</sup>

### **Regulation by Division of Pari-Mutuel Wagering**

Greyhound racing is regulated by the Division of Pari-Mutuel Wagering in the Department of Business and Professional Regulation (division). The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties.

Under current law, a greyhound permitholder is not required to have an operating license if the permitholder is not currently conducting live racing.<sup>8</sup> There are 12 permitholders that do not have operating licenses for FY 2014-2015: 2 greyhound,<sup>9</sup> 3 jai alai, 1 limited thoroughbred,<sup>10</sup> and 6 quarter horse.

Greyhound permitholders must apply for an annual operating license, specifying the number, dates and starting times of all performances to be conducted.<sup>11</sup> A "performance" is a minimum of 8 consecutive live races.<sup>12</sup> At least three live performances must be held at a track each week.<sup>13</sup>

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<sup>2</sup> According to the Division of Pari-Mutuel Wagering (division), Tampa Greyhound conducts races at St. Petersburg Kennel Club (a.k.a. Derby Lane), and both Jacksonville Kennel Club and Bayard Raceways (St. Johns) conduct races at Orange Park Kennel Club.

<sup>3</sup> The division indicated that H & T Gaming @ Mardi Gras and Mardi Gras operate at a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona operate at a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach operate at a facility in West Palm Beach, Miami Jai Alai and Summer Jai Alai operate at a facility in Miami, and Sanford-Orlando Kennel Club and Penn Sanford @SOKC operate at a facility in Longwood.

<sup>4</sup> See <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (last visited Jan. 19, 2015) for a list of current permitholders and their licensing status.

<sup>5</sup> Information about racing greyhound permitholders for the fiscal years 2013-2014 and 2014-2015 is available at <http://www.myfloridalicense.com/dbpr/pmw/track.html> (last visited Jan. 19, 2015).

<sup>6</sup> Section 550.002(29), F.S.

<sup>7</sup> See the division's *83rd Annual Report, Fiscal Year 2013-2014*,

<http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf> (last visited Jan. 19, 2015) at page 25.

<sup>8</sup> See *Pari-Mutuel Wagering Permitholders Without 2014-2015 Operating Licenses by Permit Type* at <http://www.myfloridalicense.com/dbpr/pmw/track.html> (Last visited Jan. 19, 2015).

<sup>9</sup> North American Racing Association (Key West) and Jefferson County Kennel Club (Monticello).

<sup>10</sup> Under Section 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred (Gulfstream-GPTARP and Ocala Thoroughbred Racing).

<sup>11</sup> Section 550.01215, F.S.

<sup>12</sup> Section 550.002(25), F.S.

<sup>13</sup> Section 550.002(11), F.S.

When a permitholder conducts at least three live performances in a week, it must pay purses (cash prizes to participants) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).<sup>14</sup>

In order to receive an operating license, a greyhound permitholder must have conducted a full schedule of live racing during the preceding year,<sup>15</sup> that is, a minimum of 100 live performances.<sup>16</sup>

If a permitholder does not conduct all of the performances specified in its operating license, the division may determine whether to fine the permitholder or suspend<sup>17</sup> the license,<sup>18</sup> unless the failure is due to certain events beyond the permitholder's control.<sup>19</sup> Financial hardship itself is not an acceptable basis to avoid a fine or suspension.<sup>20</sup>

According to the division, there were 19 license suspensions, and \$80,950 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2013-2014.<sup>21</sup>

### **Greyhound Care**

The division, by administrative rule adopted pursuant to s. 550.2415(12), F.S., requires notification of the death of a racing greyhound while in training or during a race on the grounds of a greyhound track or kennel compound.<sup>22</sup> The track must notify the division, within 18 hours, of the deceased animal's location, where the death occurred, and how to reach the kennel operator, trainer and the person making the report. Haulers or drivers who transport racing animals must be licensed, and greyhound trainers of record are responsible for physically inspecting the animals in their care for sores, cuts, abrasions, muzzle burns, fleas and ticks,<sup>23</sup>

If an animal is injured and later dies or is euthanized, the division may conduct a postmortem examination.<sup>24</sup>

According to the University of Pennsylvania School of Veterinary Medicine, fractures and dislocations of the racing greyhound can be of any type, but certain injuries are more common. Many of these injuries are rare in other breeds. The following are two examples of common

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<sup>14</sup> Section 550.09514(2)(c), F.S.

<sup>15</sup> Section 550.002(11), F.S. In accordance with s. 550.002(38), F.S., a full schedule of live racing is calculated from July 1 to June 30, which is the state fiscal year.

<sup>16</sup> The performances may be during the day or in the evenings, as set forth in the schedule that is part of the operating license issued by the division.

<sup>17</sup> After Jefferson County Kennel Club failed to conduct scheduled performances, its operating license was suspended September 22, 2014 under a consent order. See the order at <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2014-2015.html> (last visited Jan. 19, 2015).

<sup>18</sup> Section 550.01215(4), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See *supra* note 7, at page 3.

<sup>22</sup> See Rule 61D-2.023(3)(k), F.A.C., which became effective May 21, 2013. According to the department, 192 reports of greyhound deaths were filed with the division between May 31, 2013 and December 31, 2014.

<sup>23</sup> See Rules 61D-2.023(4) and (6), F.A.C.

<sup>24</sup> Section 550.2415(9), F.S. also provides that postmortem examinations may be made of any animal that dies while housed at a permitted racetrack, association compound, or licensed kennel or farm.

injuries to racing greyhounds. Fractures of the accessory carpal bone in the paw of a racing greyhound are relatively common due to the stresses of racing. The injury, which more commonly affects the right leg, is due to hyperextension of the carpus (the ‘wrist’ of the leg) at speed. Another example is metacarpal-metatarsal fractures to the paw which occur in a young dog that runs a very fast race or in an unfit dog that starts racing prematurely.<sup>25</sup> Prior to the banning of live greyhound racing in Massachusetts by citizen initiative in 2008, the Massachusetts Legislature enacted injury reporting legislation codified at ch. 128C, s. 7A, Massachusetts General Laws. In analyzing the injury reports, Grey2K USA, a national greyhound protection organization, found that for 2002-2004, over 74 percent of reported greyhound injuries were fractures.<sup>26</sup>

According to Grey2K USA, seven states have live greyhound racing. Those states are Alabama, Arizona, Arkansas, Florida, Iowa, Texas, and West Virginia.<sup>27</sup>

Examples of racing greyhound injury reports in use in Florida are shown in a publication issued by Grey2K USA.<sup>28</sup> The information provided in a 2011 Daytona Beach Kennel Club injury report (due no later than 24 hours after an injury occurs),<sup>29</sup> includes the type of injury, its location on the greyhound’s body, and the treatment provided to the greyhound:

- Injury type (e.g., fracture, dislocation, sprain, muscle tear/sore, laceration/cut);
- Area injured (e.g., left hind leg) and bone/joint injured (e.g., toe, shoulder); and
- Treatment (e.g., x-rays, surgery, splint, rest, euthanasia).

The information provided in 2011 Flagler Greyhound Track reports is less extensive.<sup>30</sup> The injury reports cited by Grey2K USA appear to be signed by the racetrack veterinarians.

### III. Effect of Proposed Changes:

SB 2 requires that an injury to a racing greyhound be reported to the Division of Pari-mutuel Wagering within 7 days after the injury occurred or is believed to have occurred (e.g. where the time the injury occurred is uncertain, such as injuries discovered since the last daily inspection of the racing greyhound, or upon the arrival of the greyhound at a kennel if transported) by:

- A racetrack veterinarian, if the injury occurred at the racetrack; or
- An owner, trainer or kennel operator with knowledge of the injury, if the injury occurred at a location other than the racetrack or during transportation.

The bill requires reporting of the following information about an injury:

<sup>25</sup> See University of Pennsylvania School of Veterinary Medicine Computer Aided Learning Program course supplement at [http://cal.vet.upenn.edu/projects/saortho/chapter\\_35/35mast.htm](http://cal.vet.upenn.edu/projects/saortho/chapter_35/35mast.htm) (last visited Jan. 19, 2015). See also Benjamin G. J. Wernham, BVSc and James K. Roush, DVM, MS, DACVS, *Metacarpal and Metatarsal Fractures in Dogs*, Compendium: Continuing Education for Veterinarians®, Vetlearn.com, (March 2010), available at [https://s3.amazonaws.com/assets.prod.vetlearn.com/mmah/5f/e8eac1e38940cb8b9aab8e862fa06a/filePV0310\\_wernham\\_CE.pdf](https://s3.amazonaws.com/assets.prod.vetlearn.com/mmah/5f/e8eac1e38940cb8b9aab8e862fa06a/filePV0310_wernham_CE.pdf) (last visited Jan. 19, 2015).

<sup>26</sup> See *Injuries in Racing Greyhounds, A Report to the Massachusetts General Court July 2005* [www.grey2kusa.org/pdf/injuryreport.pdf](http://www.grey2kusa.org/pdf/injuryreport.pdf) (last visited Jan. 19, 2015).

<sup>27</sup> See <http://www.grey2kusa.org/action/states.html> (last visited Jan. 19, 2015).

<sup>28</sup> See *Greyhound Racing in Florida (December 2011)* <http://www.grey2kusa.org/pdf/FLreport.pdf> (last visited Jan. 19, 2015).

<sup>29</sup> *Id.* at p. 31.

<sup>30</sup> *Id.* at pages 32-34.

- Specific identification of the injured greyhound (name, tattoos, microchip information), with contact information for the greyhound's owner, trainer, and kennel operator; and
- The type and location of the injury, its cause, and estimated recovery time.

Further, if the injury occurs during a race, an injury report must state:

- The name of the racetrack and the time injury occurred;
- The distance, grade, race, and post position of the injured greyhound; and
- The weather and track conditions at the time of the injury.

If the injury occurs when the greyhound is not racing, an injury report must state the location where the injury occurred and the circumstances.

The bill provides that injury reports are public records that must be maintained by the division for 7 years.

Racing greyhound injury reports must be sworn to under penalty of perjury.<sup>31</sup> In addition, false statements in an injury report by a veterinarian, owner, trainer, or kennel operator may result in discipline of that licensee by the division as permitted by the provisions of chapter 550 (Parimutuel Wagering, chapter 455 (Business and Professional Regulation: General Provisions) or chapter 474 (Veterinary Medical Practice).

The bill does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

The bill provides for an effective date of July 1, 2015.

#### **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

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<sup>31</sup> Section 837.012, F.S., provides that makers of false statements under oath in regard to any material matter (such as those made in an injury reporting form) which he or she does not believe to be true, are guilty of a first degree misdemeanor and may be sentenced to a term of imprisonment up to one year and required to pay a fine not to exceed \$1,000).

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

None.

**B. Private Sector Impact:**

Additional reporting will have an indeterminate impact on greyhound permitholders and operating racetracks. If numerous injury reports are made for injuries occurring at a specific racetrack or kennel, actions taken to address the causes of injuries may increase operational expenses for a greyhound permitholder or other licensee. If transport of racing greyhounds results in numerous injuries, licensees may determine not to use the services of those haulers or drivers. If the Division of Pari-Mutuel Wagering determines that numerous injuries have occurred at a particular location, an investigation may be instituted to assess violations of chapter 550, Florida Statutes, by licensees.

**C. Government Sector Impact:**

Recordkeeping and producing documents in response to public records requests for injury reports on racing greyhounds will have an indeterminate impact on the workload of the Division of Pari-Mutuel Wagering, depending on the number of injury reports that are filed. The department estimates the fiscal impact to the state in 2014-2015 from a low of \$60,727 if it collects reports and serves as a repository (one additional staff), to a high of \$425,163 if it reviews the reports, assesses the accuracy of reports, and investigates false statements, and pursues administrative action (five additional staff and three additional vehicles).<sup>32</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 550.2416 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.

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<sup>32</sup> See 2015 Department of Business and Professional Regulation Legislative Bill Analysis, January 15, 2015 (on file with Senate Committee on Regulated Industries).



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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By Senator Sobel

33-00349B-15

20152\_\_

1 A bill to be entitled  
 2 An act relating to greyhound racing injuries;  
 3 providing a short title; creating s. 550.2416, F.S.;  
 4 requiring injuries to racing greyhounds to be reported  
 5 on a form adopted by the Division of Pari-mutuel  
 6 Wagering in the Department of Business and  
 7 Professional Regulation within a certain timeframe;  
 8 specifying the information that must be included in  
 9 the form; requiring the division to maintain the forms  
 10 as public records; specifying disciplinary action that  
 11 may be taken against a licensee of the department who  
 12 fails to report an injury or who makes false  
 13 statements on an injury form; exempting injuries to  
 14 certain animals from reporting requirements; requiring  
 15 the division to adopt rules; providing an effective  
 16 date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20 Section 1. This act may be cited as the "Victoria Q. Gaetz  
 21 Racing Greyhound Protection Act."

22 Section 2. Section 550.2416, Florida Statutes, is created  
 23 to read:

24 550.2416 Reporting of racing greyhound injuries.—

25 (1) An injury to a racing greyhound which occurs while the  
 26 greyhound is located in this state must be reported on a form  
 27 adopted by the division within 7 days after the date the injury  
 28 occurred or is believed to have occurred.

29 (2) The form shall be completed and signed under oath or

Page 1 of 3

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

33-00349B-15

20152\_\_

30 affirmation under penalty of perjury by the:  
 31 (a) Racetrack veterinarian, if the injury occurred at the  
 32 racetrack facility; or  
 33 (b) Owner, trainer, or kennel operator who had knowledge of  
 34 the injury, if the injury occurred at a location other than the  
 35 racetrack, including during transportation.  
 36 (3) The form must include all of the following:  
 37 (a) The greyhound's registered name, right-ear and left-  
 38 ear tattoo numbers, and, if any, the microchip manufacturer and  
 39 number.  
 40 (b) The name, business address, and telephone number of the  
 41 greyhound owner, the trainer, and the kennel operator.  
 42 (c) The color, weight, and sex of the greyhound.  
 43 (d) The specific type and bodily location of the injury,  
 44 the cause of the injury, and the estimated recovery time from  
 45 the injury.  
 46 (e) If the injury occurred while the greyhound was racing:  
 47 1. The racetrack where the injury occurred;  
 48 2. The distance, grade, race, and post position of the  
 49 greyhound when the injury occurred; and  
 50 3. The weather conditions, time, and track conditions when  
 51 the injury occurred.  
 52 (f) If the injury occurred when the greyhound was not  
 53 racing:  
 54 1. The location where the injury occurred; and  
 55 2. The circumstances surrounding the injury.  
 56 (g) Other information that the division determines is  
 57 necessary to identify injuries to racing greyhounds in this  
 58 state.

Page 2 of 3

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

33-00349B-15

20152\_\_

59 (4) An injury form created pursuant to this section shall  
60 be maintained as a public record by the division for 7 years  
61 from the date it was received.

62 (5) A licensee of the department who knowingly makes a  
63 false statement concerning an injury or fails to report an  
64 injury is subject to disciplinary action under this chapter or  
65 chapters 455 and 474.

66 (6) This section does not apply to injuries to a service  
67 animal, personal pet, or greyhound that has been adopted as a  
68 pet.

69 (7) The division shall adopt rules to implement this  
70 section.

71 Section 3. This act shall take effect July 1, 2015.

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Children, Families, and Elder Affairs, *Chair*  
Health Policy, *Vice Chair*  
Agriculture  
Education Pre-K-12  
Appropriations Subcommittee on Health  
and Human Services

## SENATOR ELEANOR SOBEL

33rd District

January 15, 2015

Senator Rob Bradley, Chair  
Regulated Industries  
404 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399

Dear Chair Bradley,

This letter is to request that **SB 2** relating to Greyhound Injury Reporting be placed on the agenda of the next scheduled meeting of the Regulated Industries Committee.

The proposed legislation would require facilities that race greyhounds to report and provide documentation of any injury or death relating to greyhounds housed within their facility. Every three days, a racing greyhound dies in Florida. Further, Florida is one of only two states in the country that does not require this information to be provided by these facilities.

Thank you for your consideration of this request.

With Best Regards,



Eleanor Sobel  
State Senator, 33<sup>rd</sup> District

cc: Lynn Koon, Committee Administrative Assistant

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

*JB2*

Bill Number (if applicable)

Meeting Date

Topic Greyhound Protection

Amendment Barcode (if applicable)

Name JACK CORY

Job Title \_\_\_\_\_

Address 110 E. College Ave

Phone 850-893-0995

Street

City

State

Zip

Email JACK.CORY@FAU

Speaking:  For  Against  Information

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

*+ August*

Representing Fla Greyhound Assn & National Greyhound Assn

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)

1/21/15

Meeting Date

Senate Bill 2

Bill Number (if applicable)

Topic greyhound injury reporting

Amendment Barcode (if applicable)

Name Carey M. Theil

Job Title executive director

Address Po Box F

Phone 781-488-3526

Street

Arlington

City

MA

State

02476

Zip

Email Carey@greyzkusa.org

Speaking:  For  Against  Information

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

Representing GREYZK USA

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)

# APPEARANCE RECORD

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

1/21/15

Meeting Date

SB 2

Bill Number (if applicable)

Topic Gyphons Injury Reporting

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title FL State Director

Address \_\_\_\_\_

Phone 850 508-1001

Street

Tallahassee

FL

City

State

Zip

Email kmacfall@humansociety.org

Speaking:  For  Against  Information

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

Representing Humane Society of the United States

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.







Miguel Oyamendi, Attorney  
Senate Regulated Industries  
Committee

# The Three Tier Alcoholic Beverage Regulation System and Malt Beverage Regulation in Florida

- ✓ **Brief History of Alcoholic Beverage Regulation**
  - ✓ **The Three Tier System**
  - ✓ **Tied House Evil Law**
  - ✓ **Manufacturers Licensed as Vendors**
  - ✓ **Growlers**
  - ✓ **Malt Beverage Tastings**
- 

# Brief History of Alcoholic Beverage Regulation

## Prohibition (1920-1933)

- Reduced alcohol consumption
- Led to an underground, illegal alcoholic beverage industry

## 1933: The repeal of Prohibition with the Twenty-First Amendment gave the states the authority to regulate alcoholic beverage

### The Twenty-First Amendment to the U.S. Constitution

**Section 1.** The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

**Section 2.** The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

**Section 3.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.


# After the Repeal of Prohibition

Three tier system was established to remove the direct connection between manufacturers and retail vendors.

- Manufacturer
- Distributor
- Vendor/ Retailer

# Purposes of the Three Tier System

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- Encourage moderate consumption
  - Prevent large companies from dominating local markets
  - Avoid overly aggressive marketing and sales practices
  - Facilitate state and local control
  - Generate tax revenues that can be efficiently collected
- 

# Florida Laws and Rules that implement the Three Tier System

- Beverage Law - Chapters 561-568, F.S.
- Tied House Evil – Section 561.42, F.S.
- Rules 61A-1.010 – 61A-1.0108, F.A.C.

# Tied House Evil

The term “Tied House” derives from the practice in England where a bar is Tied, by ownership links or contractual obligations, to a specific manufacturer.

Tied House was also the practice in the United States prior to Prohibition.



# Tied House Evil (cont.)

Tied House Restrictions were intended to:

Prevent the vertical  
integration of ownership  
in the alcoholic  
beverage industry.



Prevent intemperate  
consumption.

# Florida's Tied House Evil Law

## Section 561.42, F.S.

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

# Vendor-Licensed Manufacturer Exemptions

## **Breweries** – Section 561.221(2), F.S.

- Single Complex
- Brewing and other structures
- Promote the brewery and tourism industry of the state

## **Brew Pubs** – Section 561.221(3), F.S.

- Limited to 10,000 kegs per year (One keg= 15.5 gallons)
- Limited to selling for consumption on the premises where brewed or on contiguous premises

# Vendor-Licensed Manufacturer Exemptions

**In-state wineries** – Section 561.221(1)(b), F.S.

- May hold up to 3 vendor licenses
- The vendor-licensed premises must be contiguous to the manufacturing premises

**Craft Distilleries** – Section 565.03(2)(c), F.S.:

- No more than two containers to consumers in face to face transactions.
- Limited to distilleries that produce 75,000 or fewer gallons on their premises per calendar year.

## Malt Beverage Manufacturers Licensed as Vendors (Terms)

- Vender-licensed Brewery
- Craft Brewery
- Tourist Brewery
- Brewery Taproom
  
- ❖ Brew Pub (Vendor Licensed as a manufacturer)

# Vendor Licenses

A brewery may obtain any alcoholic beverage vendor license for which it qualifies.


- Malt Beverages (Beer) – Chapter 563, F.S.
- Wine (including mead) – Chapter 564, F.S.
- Spirituous Beverages (Liquor) – Chapter 565, F.S.

# Vendor License Further Classified

- Consumption on the licensed premises (COP)
- Consumption off the licensed premises (package sales)
- Consumption on and off the licensed premises.

## Quota Licenses – Section 561.20, F.S.

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- Permit the sale of beer, wine, and liquor for consumption on or off the licensed premises.
  - Limited per county
  - One license for every 7,500 residents per county
  - New licenses are issued through a lottery
- 



# Manufacturers – License Fees

- Beer \$3,000
- Brew Pub \$500
- Wine \$1,000
- Liquor \$4,000

# Vendor License Fees

- Beer, Wine, and/or Liquor
- For consumption on premises (COP) or consumption off premises
- County Population
- Specialty License

# Example: Vendor License Fee

- County Population >100,000 (highest)
- Sale of Beer and Wine
- Consumption on and off premises permitted

License Fee = \$280 annually

What is a Growler?

A container used to transport beer.

# Growlers



# Growlers

- Glass
- Ceramic
- Stainless Steel



Growlers are available in a variety of shapes and designs



# Section 563.03(6), F.S.

All malt beverages packaged in individual containers sold or offered for sale by vendors at retail in this state shall be in individual containers containing no more than 32 ounces of such malt beverages; provided, however, that nothing contained in this section shall affect malt beverages packaged in bulk or in kegs or in barrels or in any individual container containing 1 gallon or more of such malt beverage regardless of individual container type.



# Legal in Florida

- 32 oz. Growler
- 1 Gallon Growler



## Growler Issues that are not specifically Address in current law:

- The term “growler” is not defined
- How to seal a growler
- Growler material (glass, ceramic, steel, plastic?)
- Sanitation requirements
- Labeling, including alcohol percentage of beer style
- Safety, e.g., providing room for expansion to prevent explosions

# How Growlers are Sealed



# Who can fill growlers?

**Vendors licensed for consumption on and off premises, for example:**

- Bars
- Vendor-Licensed Brewers
- Package Stores holding a quota license

# Vendor-Licensed Brewer Issues

**Should vendor-licensed brewers be allowed to continue to:**

- Fill and refill growlers with their own beer?
- Fill and refill growlers with beer that they do not manufacture (Guest Taps)?
- Transfer beer between their breweries to sell in their taprooms?
- Sell beer in bottles and cans (non-growler) for consumption off the premises, including beer they produce and beer from other brewers?

# Bottle Sizes

**Should qualified vendors be permitted to:**

Use 64 oz. growlers?

Use any growler between 32 oz. and 64 oz.?

❖ Should the bottle size limits be repealed to permit the sale of malt beverages in any container size?

# Malt Beverage Tastings

Vendors are not prohibited from giving free samples of alcoholic beverage to their customers, provided:

- The Vendor is licensed to sell or serve the alcoholic beverages (Beer, Wine, and/or Liquor)
- The alcoholic beverages are provided at the Vendor's own expense

# Malt Beverage Tastings

## Section 561.42(14) (e), F.S.

Manufacturers, distributors, importers, brand owners, or brand registrants of beer, and any broker, sales agent, or sales person thereof, shall not conduct any sampling activities that include tasting of their product at a vendor's premises licensed for off-premises sales only.




# Tastings Exceptions

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**Distributors may conduct tastings at vendor locations for:**

- Wine - Section 564.08, F.S.
- Liquor-Section 565.17, F.S.

## **Restrictions:**

- Vendor must be licensed for either on or off premises consumption
  - Sales must be limited to and directed toward the general public of the age of legal consumption
- 

Thank You

Questions?

Comments?

## Discussion Topics

1. Should vendor licensed brewers be allowed to fill growlers and seal them for consumption off the licensed premises?
2. Should the filling of growlers be limited to malt-beverages manufactured by the vendor-licensed brewer, i.e., whether to permit the filling of growlers from guest taps?
3. Should a brewer with more than one brewery be allowed to transfer malt beverages between locations for the purpose of retail sales including filling growlers?
4. Should the use of a 64 ounce container be authorized for all malt beverages or should it be limited to growlers?
5. Alternatively, should the container size requirements for malt beverage be repealed?
6. What other types of alcoholic beverage licensees should be allowed to fill growlers and seal them for consumption off the licensed premises?
7. Should malt beverage tastings be allowed?
8. Other issues as may appropriate.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

7A

1/21/15

Meeting Date

Bill Number (if applicable)

Topic Alcohol Deregulation / growlers

Amendment Barcode (if applicable)

Name Eric Criss

Job Title President

Address ~~1000~~ 110 S. Monroe

Phone 222-8960

Street

Tallahassee, FL

City

State

Zip

Email eric@floridabeer.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.

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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)

Jan. 21, 2015  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Malt Beverage Workshop

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Mitchell Rubin

Job Title Executive Director

Address 215 S. Monroe St. #340  
Street

Phone 850-224-2337

Tallahassee, FL 32301  
City State Zip

Email MRubin2505@901.com

Speaking:  For  Against  Information

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

Representing Florida Beer Wholesalers Assn

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

FBG #1

THE FLORIDA SENATE

APPEARANCE RECORD

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

January 21, 2015  
Meeting Date

Bill Number (if applicable)

Topic Malt Beverages - Craft Beer

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Exec. Dir. / General Counsel

Address 315 S. Calhoun  
Street

Phone 850-224-7000

Tallahassee  
City

FL  
State

32301  
Zip

Email

Speaking:  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  No

Lobbyist registered with Legislature:  Yes  No

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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)

1/21/2015  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic BEER SAMPLING

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name JOSE GONZALEZ

Job Title REGION VP

Address PO BOX 836

Phone 294-4057

Street

TALLAHASSEE, FL 32302

Email JOSE.GONZALEZ@

City

State

Zip

ANHEUSER-BUSCH.COM

Speaking:  For  Against  Information

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

Representing ANHEUSER-BUSCH

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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S-001 (10/14/14)

FBG #3

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/15  
Meeting Date

Bill Number (if applicable)

Topic Malt beverages

Amendment Barcode (if applicable)

Name BEN DAVIS

Job Title Founder Intuition ALE Works

Address 720 King St.

Phone 904 710 8911

Street

Jacksonville FL 32204

City

State

Zip

Email ben@intuitionale.com

Speaking:  For  Against  Information

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

Representing Intuition Ale Works

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**

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1/21/2015

Meeting Date

N/A

Bill Number (if applicable)

Topic Alcohol

Amendment Barcode (if applicable)

Name Susan Pitman

Job Title Exec. Director

Address 2010 Forbes St  
Street

Phone 904 374 9145

Jax FL 32204  
City State Zip

Email Susan@dfdjax.org

Speaking:  For  Against  Information

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

*Substance abuse*

Representing Prevention, Safety + health

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name John Giotta

Job Title Headmaster School of the Immaculate

Address 851 Bayou Blvd Yacht Home Unit 103 Phone 908-642-9958

Street

Clearwater Beach FL 33767 Email Jkt 225 @ Yahoo! .com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Council for State Committee

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

01-21-15

Meeting Date

Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Scott Dick

Job Title lobbyist

Address 210 South Monroe Street

Phone 850 421-9100

Street

City

State

Zip

Tallahassee FL 32301

Email Scott@skdgrp.com

Speaking:  For  Against  Information

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

Representing Florida Independent Spirits Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

FBG #5

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/2015  
Meeting Date

Bill Number (if applicable)

Topic Malt Beverages - Craft Beer

Amendment Barcode (if applicable)

Name Nathan Stonecipher

Job Title Owner - Green Bench Brewing

Address 1133 Bann Ave N  
Street

Phone 727-214-4263

St. Petersburg, FL 33705  
City State Zip

Email nathan@greenbench  
brewing.com

Speaking:  For  Against  Information

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

Representing Green Bench Brewing

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)

1-21-15

Meeting Date

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S. Adams St.

Phone 222-4082

Street

Tallahassee, FL 32301

Email samantha@frf.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Retail Federation

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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S-001 (10/14/14)

FBG #4

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/15  
Meeting Date

Bill Number (if applicable)

Topic MACT BURROUGHS

Amendment Barcode (if applicable)

Name BRYAN BURROUGHS BRYAN BURROUGHS

Job Title OWNER - PLEEF BREWING Co.

Address 644 McDonald Dr  
ALLA WASTE, FL 32310  
Street City State Zip

Phone 850-443-6757

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing PLEEF BREWING Co.

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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FBG #2

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/15

Meeting Date

Bill Number (if applicable)

Topic MALT BEVERAGES

Amendment Barcode (if applicable)

Name MIKE HALKER

Job Title OWNER

Address 2900 HIGH RIDGE RD #3

Phone 561.707.1253

Street

BOYNTON BEACH FL 33426

Email

City

State

Zip

Speaking: [ ] For [ ] Against [x] Information

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

Representing DJE SOUTH BREWING Co.

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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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)

1/21/15  
Meeting Date

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Mike Martinez

Job Title Deputy General Counsel

Address 1940 N. Monroe St.

Phone 488-0063

Street

Tallahassee

Fla.

State

32399

Zip

Email michael.martinez@myflorid  
license.c

Speaking:  For  Against  Information

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

Representing DBPR

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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# CourtSmart Tag Report

**Room:** EL 110  
**Caption:** Senate Regulated Industries

**Case:**  
**Judge:**

**Type:**

**Started:** 1/21/2015 9:04:25 AM  
**Ends:** 1/21/2015 11:36:47 AM      **Length:** 02:32:23

**9:04:47 AM** Opening remarks  
**9:05:58 AM** Introduction of staff  
**9:08:25 AM** Tab 2 - Greyhound Racing - Senator Sobel  
**9:14:47 AM** Jack Cory - FL Greyhound Assoc.  
**9:25:13 AM** Tab 3 - three tier alcoholic beverage regulation (Migel)  
**10:06:19 AM** Workshop, Discussion, and Public Testimony on the Regulation of Malt Beverages in Florida  
**10:07:18 AM** Eric Criss, President, Beer Industry of Florida  
**10:26:32 AM** Mitch Rubin, Ex Dir, FL Beer Wholesalers Assoc.  
**10:38:38 AM** Josh Aubuchon, Florida Brewers Guild  
**10:47:33 AM** Mr. Martinez, DBPR  
**10:56:25 AM** Jose Gonzalez, Anheuser-Busch Companies  
**11:00:56 AM** Ben Davis - Intuition Ale Works  
**11:04:03 AM** Susan Pitman, Substance, Abuse, Prevention, Safety & Health  
**11:10:54 AM** John Giotis, Florida Council for Safe Communities  
**11:12:35 AM** Scott Dick - ABC Fine Wine and Spirits  
**11:19:49 AM** Nathan Stonecipher - Green Bench Brewing  
**11:24:33 AM** Samantha Padgett - Florida Retail Federation  
**11:26:29 AM** Bryon Burroughs - Proof Brewing Company  
**11:31:27 AM** Mike Halker - Due South Brewing Co.  
**11:35:18 AM** Further discussion on regulation of malt beverages  
**11:36:34 AM** Adjourned