

A bill to be entitled

An act relating to malt beverage tastings; amending s. 561.42, F.S.; deleting brokers from provisions regulating malt beverages; removing the prohibition on beer samplings at the premises of vendors licensed for off-premises sales only; authorizing malt beverage tastings on the licensed premises of certain vendors, subject to certain requirements, limitations, liabilities, and penalties; providing applicability; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to adopt rules; expanding the prohibition on cooperative advertising with a vendor; making editorial changes; providing an effective date.

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

Section 1. Subsection (14) of section 561.42, Florida Statutes, is amended to read:

561.42 Tied house evil; financial aid and assistance to vendor by manufacturer, distributor, importer, primary American source of supply, brand owner or registrant, or any broker, sales agent, or sales person thereof, prohibited; procedure for enforcement; exception.—

(14) The division shall adopt reasonable rules governing promotional displays and advertising, which rules may ~~shall~~ not

27 conflict with or be more stringent than the federal regulations
28 pertaining to such promotional displays and advertising
29 furnished to vendors by distributors, manufacturers, importers,
30 primary American sources of supply, or brand owners or
31 registrants, or any broker, sales agent, or sales person
32 thereof; however:

33 (a) If a manufacturer, distributor, importer, brand owner,
34 or brand registrant of malt beverage, or any ~~broker,~~ sales
35 agent, or sales person thereof, provides a vendor with
36 expendable retailer advertising specialties such as trays,
37 coasters, mats, menu cards, napkins, cups, glasses,
38 thermometers, and the like, such items may ~~shall~~ be sold only at
39 a price not less than the actual cost to the industry member who
40 initially purchased them, without limitation in total dollar
41 value of such items sold to a vendor.

42 (b) Without limitation in total dollar value of such items
43 provided to a vendor, a manufacturer, distributor, importer,
44 brand owner, or brand registrant of malt beverage, or any
45 ~~broker,~~ sales agent, or sales person thereof, may rent, loan
46 without charge for an indefinite duration, or sell durable
47 retailer advertising specialties such as clocks, pool table
48 lights, and the like, which bear advertising matter.

49 (c) If a manufacturer, distributor, importer, brand owner,
50 or brand registrant of malt beverage, or any ~~broker,~~ sales
51 agent, or sales person thereof, provides a vendor with consumer
52 advertising specialties such as ashtrays, T-shirts, bottle

53 openers, shopping bags, and the like, such items may ~~shall~~ be
 54 sold only at a price not less than the actual cost to the
 55 industry member who initially purchased them, and ~~but~~ may be
 56 sold without limitation in total value of such items sold to a
 57 vendor.

58 (d) A manufacturer, distributor, importer, brand owner, or
 59 brand registrant of malt beverage, or any ~~broker,~~ sales agent,
 60 or sales person thereof, may provide consumer advertising
 61 specialties described in paragraph (c) to consumers on any
 62 vendor's licensed premises.

63 (e) 1. A manufacturer, distributor, or importer of malt
 64 beverages, or any contracted third-party agent thereof, may
 65 ~~Manufacturers, distributors, importers, brand owners, or brand~~
 66 ~~registrants of beer, and any broker, sales agent, or sales~~
 67 ~~person thereof, shall not~~ conduct any sampling activities that
 68 include the tasting of malt beverage products on:

69 a. The licensed premises of a vendor authorized to sell
 70 alcoholic beverages by the drink for on-premises consumption; or

71 b. The licensed premises of a vendor authorized to sell
 72 alcoholic beverages only in sealed containers for off-premises
 73 consumption if:

74 (I) The licensed premises is at an establishment that has
 75 at least 10,000 square feet of interior floor space exclusive of
 76 storage space not open to the general public; or

77 (II) The licensed premises is a package store licensed
 78 under s. 565.02(1)(a) regardless of square footage ~~their product~~

79 ~~at a vendor's premises licensed for off-premises sales only.~~

80 2. A malt beverage tasting conducted under this paragraph
81 must be limited to and directed toward the general public of the
82 age of legal consumption.

83 3. For a malt beverage tasting conducted under this
84 paragraph on the licensed premises of a vendor authorized to
85 sell alcoholic beverages for consumption on such premises, each
86 serving of a malt beverage to be tasted must be provided to the
87 consumer by the drink in a tasting cup, glass, or other open
88 container and may not be provided by the package, in an unopened
89 can or bottle, or in any other sealed container.

90 4. For a malt beverage tasting conducted under this
91 paragraph on the licensed premises of a vendor authorized to
92 sell alcoholic beverages only in sealed containers for
93 consumption off premises, the tasting must be conducted in the
94 interior of the building constituting the vendor's licensed
95 premises and each serving of a malt beverage to be tasted must
96 be provided to the consumer in a tasting cup having a capacity
97 of 3 ounces or less.

98 5. A manufacturer, distributor, importer, or a contracted
99 third-party agent thereof, may not pay a vendor a fee or
100 compensation of any kind, including the provision of a malt
101 beverage at no cost or at a reduced cost, to authorize the
102 conduct of a malt beverage tasting under this paragraph,
103 violation of which constitutes a violation of s. 561.42.

104 6.a. A manufacturer, distributor, importer, or a

105 contracted third-party agent thereof, conducting a malt beverage
106 tasting under this paragraph, must provide all of the beverages
107 to be tasted, the total volume of which for all tastings
108 conducted by all manufacturers, distributors, and importers on a
109 vendor's licensed premises on any one day may not exceed 576
110 ounces; must have paid all excise taxes on those beverages which
111 are required of the manufacturer or distributor; and must return
112 to the manufacturer's or distributor's inventory all of the malt
113 beverages provided for the tasting that remain unconsumed after
114 the tasting.

115 b. Any samples of malt beverages provided to a vendor by a
116 manufacturer, distributor, importer, or a contracted third-party
117 agent thereof, in conjunction with or at the time of a tasting
118 conducted under this paragraph on the licensed premises of such
119 vendor are subject to the volume limit for such premises set
120 forth under sub-subparagraph a.

121 c. This subparagraph does not preclude a manufacturer,
122 distributor, importer, or a contracted third-party agent
123 thereof, from buying the malt beverages it provides for the
124 tasting from a vendor at no more than the retail price, but all
125 of the malt beverages so purchased and provided for the tasting
126 which remain unconsumed after the tasting must be removed from
127 the premises of the tasting and disposed of properly.

128 7. A manufacturer, distributor, or importer of malt
129 beverages that contracts with a third-party agent to conduct a
130 malt beverage tasting under this paragraph on the

131 manufacturer's, distributor's, or importer's behalf is
 132 responsible for any recordkeeping requirements under this
 133 paragraph with respect to such agent and any violation of this
 134 section by such agent.

135 8. This paragraph does not preclude a vendor from
 136 conducting a malt beverage tasting on its licensed premises
 137 using malt beverages from its own inventory.

138 9. This paragraph is supplemental to and does not
 139 supersede any special act or ordinance.

140 10. The division may, pursuant to ss. 561.08 and 561.11,
 141 adopt rules to implement, administer, and enforce this
 142 paragraph.

143 (f) A manufacturer ~~Manufacturers,~~ distributor
 144 ~~distributors,~~ importer ~~importers,~~ brand owner ~~owners,~~ or brand
 145 registrant ~~registrants~~ of malt beverages ~~beer,~~ and any ~~broker,~~
 146 ~~sales agent,~~ or sales person thereof or contracted third-party
 147 agent under paragraph (e), may shall not engage in cooperative
 148 advertising with a vendor and may not pay for advertising that
 149 names a vendor under the guise of advertising a tasting of malt
 150 beverages ~~vendors.~~

151 (g) A distributor ~~Distributors~~ of malt beverages ~~beer~~ may
 152 sell to a vendor ~~vendors~~ draft equipment and tapping accessories
 153 at a price not less than the cost to the industry member who
 154 initially purchased them, except there is no required charge,
 155 and the ~~a~~ distributor may exchange any parts that ~~which~~ are not
 156 compatible with a competitor's system and are necessary to

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157 dispense the distributor's brands. A distributor of malt
158 beverages ~~beer~~ may furnish to a vendor at no charge replacement
159 parts of nominal intrinsic value, including, but not limited to,
160 washers, gaskets, tail pieces, hoses, hose connections, clamps,
161 plungers, and tap markers.

162 Section 2. This act shall take effect August 15, 2014.