

FOR CONSIDERATION By the Committee on Regulated Industries

580-02882A-14

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1 A bill to be entitled
2 An act relating to malt beverages; amending s. 561.01,
3 F.S.; defining the term "growler"; amending s.
4 561.221, F.S.; clarifying three-tier system exceptions
5 and application with respect to the manufacture,
6 distribution, and sale of malt beverages; revising
7 requirements for licensure and operation of
8 manufacturers and vendors; providing legislative
9 intent; amending s. 561.5101, F.S.; adding an
10 exception to the come-to-rest requirement; amending s.
11 562.34, F.S.; authorizing the possession and
12 transportation of a growler; reenacting s.
13 563.022(14), F.S., relating to prohibited interests
14 between a manufacturer and a distributor of malt
15 beverages, to incorporate the amendments made to s.
16 561.221, F.S., in a reference thereto; amending s.
17 563.06, F.S.; revising provisions relating to the sale
18 of malt beverages at retail in containers of specified
19 sizes, to conform to changes made by the act;
20 providing requirements for and limitations on the
21 filling, refilling, and sale or distribution of
22 growlers; providing penalties; providing severability;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (22) is added to section 561.01,
28 Florida Statutes, to read:

29 561.01 Definitions.—As used in the Beverage Law:

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30 (22) "Growler" means a clean container made of glass,
31 ceramic, metal, or similar leak-proof material having a capacity
32 of 32 ounces or 64 ounces which, in response to an order in a
33 face-to-face transaction for off-premises consumption, is filled
34 with a malt beverage and sealed on the premises at or
35 immediately before or after the time of sale.

36 Section 2. Section 561.221, Florida Statutes, is amended to
37 read:

38 561.221 Licensing of manufacturers and distributors as
39 vendors and of vendors as manufacturers; exceptions, conditions,
40 and limitations.-

41 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any
42 other provision of the Beverage Law prohibits the ownership,
43 management, operation, or control of not more than three
44 vendor's licenses for the sale of alcoholic beverages by a
45 manufacturer of wine who is licensed and engaged in the
46 manufacture of wine in this state, even if such manufacturer is
47 also licensed as a distributor; provided that no such vendor's
48 license shall be owned, managed, operated, or controlled by any
49 licensed manufacturer of wine unless the licensed premises of
50 the vendor are situated on property contiguous to the
51 manufacturing premises of the licensed manufacturer of wine.

52 (b) The Division of Alcoholic Beverages and Tobacco shall
53 issue permits to a certified Florida Farm Winery to conduct
54 tasting and sales of wine produced by certified Florida Farm
55 Wineries at Florida fairs, trade shows, expositions, and
56 festivals. The certified Florida Farm Winery shall pay all entry
57 fees and shall have a winery representative present during the
58 event. The permit is limited to the length of the event.

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59 (2) Notwithstanding s. 561.22, s. 561.42, or any other
60 provision of the Beverage Law, the division is authorized to
61 issue vendor's licenses to a manufacturer of malt beverages,
62 even if such manufacturer is also licensed as a distributor, for
63 the sale of alcoholic beverages on property consisting of a
64 single complex, which property shall include a brewery and such
65 other structures which promote the brewery and the tourist
66 industry of the state. However, such property may be divided by
67 no more than one public street or highway. A vendor's license
68 issued under this subsection is subject to the following
69 restrictions:

70 (a) Sales to consumers for off-premises consumption of malt
71 beverages that are brewed on the licensed premises are limited
72 to growlers only, subject to the requirements under s.
73 563.06(7). Such sales must be made directly to consumers in
74 face-to-face transactions. This paragraph does not prohibit the
75 sale of malt beverages that the manufacturer obtains from a
76 licensed distributor.

77 (b) Notwithstanding s. 561.57(1), the delivery of a growler
78 off a licensed premises, whether by common or premises carrier
79 or by an operator of a privately owned motor vehicle or other
80 conveyance, is prohibited. In addition, a consumer or other
81 person may not arrange for the delivery of any growler off the
82 licensed premises to the consumer, whether by common or premises
83 carrier or by an operator of a privately owned motor vehicle or
84 other conveyance. However, this paragraph does not prohibit a
85 consumer from taking the growler purchased by the consumer under
86 this subsection from the licensed premises to another location
87 by a privately owned motor vehicle or other conveyance.

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88 (c) A manufacturer licensed as a vendor is responsible for
89 applicable reports pursuant to ss. 561.50 and 561.55 with
90 respect to the amount of malt beverages sold or given to
91 consumers on the licensed premises each month and must pay the
92 applicable excise taxes to the division by the 10th day of each
93 month for the previous month.

94 (d) This subsection does not preclude a licensed
95 manufacturer of malt beverages from also holding a permanent
96 food service license at the licensed premises.

97 (3) ~~(a)~~ Notwithstanding s. 561.22, s. 561.42, or any other
98 provision ~~Notwithstanding other provisions~~ of the Beverage Law,
99 a ~~any~~ vendor licensed in this state may be licensed as a
100 manufacturer of malt beverages if the vendor satisfies the
101 requirements of this subsection. ~~upon a finding by the division~~
102 that:

103 (a) The division may issue a license if it finds that all
104 of the following conditions are met:

105 1. The vendor will be engaged in brewing malt beverages at
106 a single licensed premises ~~location~~ and in an amount that which
107 will not exceed 10,000 kegs per year. As used in ~~For purposes of~~
108 this ~~subparagraph subsection~~, the term "keg" means 15.5 gallons.

109 2. The malt beverages ~~se~~ brewed will be sold to consumers
110 for consumption on the vendor's licensed premises or on
111 contiguous licensed premises owned by the vendor.

112 3. The applicant holds a permanent food service license.

113 (b) A licensee may sell the following alcoholic beverages,
114 which may be sold only in face-to-face transactions with
115 consumers:

116 1. Malt beverages that are manufactured on the licensed

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117 premises for on-premises consumption.

118 2. Malt beverages that are manufactured by other
119 manufacturers for on-premises consumption as authorized under
120 its vendor's license.

121 3. Wine or liquor for on-premises consumption as authorized
122 under its vendor's license.

123 (c) A licensee may not:

124 1. Ship malt beverages to or between licensed premises
125 owned by the licensee. A licensee is not a manufacturer for the
126 purposes of s. 563.022(14).

127 2. Distribute or sell malt beverages outside the licensed
128 premises.

129 ~~(d)(b) A licensee is Any vendor which is also licensed as a~~
130 ~~manufacturer of malt beverages pursuant to this subsection shall~~
131 ~~be responsible for applicable reports pursuant to ss. 561.50 and~~
132 ~~561.55 with respect to the amount of beverage manufactured each~~
133 ~~month and must shall pay the applicable excise taxes thereon to~~
134 ~~the division by the 10th day of each month for the previous~~
135 ~~month.~~

136 ~~(e)(e) A It shall be unlawful for any licensed distributor~~
137 ~~of malt beverages or an any officer, agent, or other~~
138 ~~representative thereof may not to discourage or prohibit a~~
139 ~~licensee any vendor licensed as a manufacturer under this~~
140 ~~subsection from offering malt beverages brewed for consumption~~
141 ~~on the licensed premises of the vendor.~~

142 ~~(f)(d) A It shall be unlawful for any manufacturer of malt~~
143 ~~beverages or an any officer, agent, or other representative~~
144 ~~thereof may not to take any action to discourage or prohibit a~~
145 ~~any distributor of the manufacturer's product from distributing~~

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146 such product to a licensee ~~licensed vendor which is also~~
147 ~~licensed as a manufacturer of malt beverages pursuant to this~~
148 ~~subsection.~~

149 (g) As used in this subsection, the term "licensee" means a
150 vendor licensed as a manufacturer of malt beverages pursuant to
151 this subsection.

152 (4) The Legislature intends that the provisions relating to
153 the sale of malt beverages by a malt beverage manufacturer
154 pursuant to subsection (2) and the operation of a licensed
155 vendor pursuant to subsection (3) constitute limited exceptions
156 to the manufacturing and vendor licensing requirements of the
157 Beverage Law. Anything not specifically authorized in
158 subsections (2) and (3) is prohibited unless otherwise
159 authorized under the Beverage Law.

160 Section 3. Subsection (1) of section 561.5101, Florida
161 Statutes, is amended to read:

162 561.5101 Come-to-rest requirement; exceptions; penalties.-

163 (1) For purposes of inspection and tax-revenue control, all
164 malt beverages, except those manufactured and sold pursuant to
165 s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the
166 licensed premises of an alcoholic beverage wholesaler in this
167 state before being sold to a vendor by the wholesaler. The
168 prohibition contained in this subsection does not apply to the
169 shipment of malt beverages commonly known as private labels. The
170 prohibition contained in this subsection does ~~shall~~ not prevent
171 a manufacturer from shipping malt beverages for storage at a
172 bonded warehouse facility if, ~~provided that~~ such malt beverages
173 are distributed as provided in this subsection or to an out-of-
174 state entity.

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175 Section 4. Subsections (1) and (3) of section 562.34,
176 Florida Statutes, are amended to read:

177 562.34 Containers; seizure and forfeiture.—

178 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have
179 in her or his possession, custody, or control any cans, jugs,
180 jars, bottles, vessels, or any other type of containers that
181 ~~which~~ are being used, are intended to be used, or are known by
182 the possessor to have been used to bottle or package alcoholic
183 beverages. ~~;~~ however, This subsection does ~~provision shall~~ not
184 apply to a ~~any~~ person properly licensed to bottle or package
185 such alcoholic beverages, a ~~or to any~~ person intending to
186 dispose of such containers to a person, firm, or corporation
187 properly licensed to bottle or package such alcoholic beverages,
188 or a person that has in her or his possession a growler.

189 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~
190 transport any cans, jugs, jars, bottles, vessels, or any other
191 type of containers intended to be used to bottle or package
192 alcoholic beverages. ~~;~~ however, This subsection does ~~section~~
193 ~~shall~~ not apply to a ~~any~~ firm or corporation holding a license
194 to manufacture or distribute such alcoholic beverages, a ~~and~~
195 ~~shall not apply to any~~ person transporting such containers to a
196 ~~any~~ person, firm, or corporation holding a license to
197 manufacture or distribute such alcoholic beverages, or a person
198 transporting a growler.

199 Section 5. Subsection (14) of section 563.022, Florida
200 Statutes, is reenacted and amended to read:

201 563.022 Relations between beer distributors and
202 manufacturers.—

203 (14) MANUFACTURER; PROHIBITED INTERESTS.—

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204 (a) This subsection applies to:

205 1. A manufacturer;

206 2. An ~~Any~~ officer, director, agent, or employee of a
207 manufacturer; or

208 3. An affiliate of a a ~~any~~ manufacturer, regardless of
209 whether the affiliation is corporate or by management,
210 direction, or control.

211 (b) Except as provided in paragraph (c), an ~~no~~ entity or
212 person specified in paragraph (a) may not have an interest in
213 the license, business, assets, or corporate stock of a licensed
214 distributor and may not ~~nor shall such entity~~ sell directly to a
215 any vendor in this state other than a vendor ~~to vendors who are~~
216 licensed pursuant to s. 561.221(2).

217 (c) An ~~Any~~ entity or person specified ~~described~~ in
218 paragraph (a) may financially assist a proposed distributor in
219 acquiring ownership of the distributorship through participation
220 in a limited partnership arrangement in which the entity or
221 person specified ~~described~~ in paragraph (a) is a limited partner
222 and the proposed distributor seeking to acquire ownership of the
223 distributorship is the general partner. Such a limited
224 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~
225 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be
226 extended or renewed by means of a transfer of full ownership to
227 an entity or person specified ~~described~~ in paragraph (a)
228 followed by the creation of a new limited partnership or by any
229 other means. In any such arrangement for financial assistance,
230 the federal basic permit and distributor's license issued by the
231 division shall be issued in the name of the distributor and not
232 in the name of an entity or person specified ~~described~~ in

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233 paragraph (a). If, after the creation of a limited partnership
234 pursuant to this paragraph, an entity or person specified
235 ~~described~~ in paragraph (a) acquires title to the distributorship
236 that ~~which~~ was the subject of the limited partnership, the
237 entity or person specified ~~described~~ in paragraph (a) shall
238 divest itself of the distributorship within 180 days, and the
239 distributorship shall be ineligible for limited partnership
240 financing for 20 years thereafter. An ~~No~~ entity or person
241 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a
242 limited partnership arrangement with a licensed distributor
243 whose distributorship existed and was operated before ~~prior to~~
244 the creation of such limited partnership arrangement.

245 (d) ~~Nothing in~~ The Beverage Law does not ~~shall be construed~~
246 ~~to~~ prohibit a manufacturer from shipping products to or between
247 its breweries without a distributor's license.

248 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~
249 entity or person specified ~~named~~ in paragraph (a) may have an
250 interest in the license, business, assets, or corporate stock of
251 a licensed distributor for a maximum of 180 consecutive days as
252 the result of a judgment of foreclosure against the distributor
253 or for 180 consecutive days after acquiring title pursuant to
254 the written request of the licensed distributor. Under either of
255 these circumstances, manufacturer ownership of an interest in
256 the license, business, assets, or corporate stock of a licensed
257 distributor may ~~shall~~ only be for 180 days and only for the
258 purpose of facilitating an orderly transfer of the
259 distributorship to an owner not affiliated with a manufacturer.

260 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~
261 entity or person specified ~~named~~ in paragraph (a) may have a

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262 security interest in the inventory or property of its licensed
263 distributors to secure payment for that ~~said~~ inventory or other
264 loans for other purposes.

265 Section 6. Section 563.06, Florida Statutes, is amended to
266 read:

267 563.06 Malt beverages; imprint on individual container;
268 size of containers; growlers; exemptions.-

269 (1) ~~On and after October 1, 1959,~~ All taxable malt
270 beverages packaged in individual containers possessed by a ~~any~~
271 person in the state for the purpose of sale or resale in the
272 state, except operators of railroads, sleeping cars, steamships,
273 buses, and airplanes engaged in interstate commerce and licensed
274 under this section, must ~~shall~~ have imprinted thereon in clearly
275 legible fashion by any permanent method the word "Florida" or
276 "FL" and no other state name or abbreviation of any state name
277 in not less than 8-point type. The word "Florida" or "FL" shall
278 appear first or last, if imprinted in conjunction with any
279 manufacturer's code. A facsimile of the imprinting and its
280 location as it will appear on the individual container must
281 ~~shall~~ be submitted to the division for approval.

282 (2) Nothing herein contained shall require such designation
283 to be attached to individual containers of malt beverages which
284 are transported through this state and which are not sold,
285 delivered, or stored for sale therein, if transported in
286 accordance with such rules and regulations as adopted by the
287 division; nor shall this requirement apply to malt beverages
288 packaged in individual containers and held on the premises of a
289 brewer or bottler, which malt beverages are for sale and
290 delivery to persons outside the state.

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291 (3) Possession by any person in the state, except as
292 otherwise provided herein, of more than 4 1/2 gallons of malt
293 beverages in individual containers which do not have the word
294 "Florida" or "FL" as herein provided, shall be prima facie
295 evidence that said malt beverage is possessed for the purpose of
296 sale or resale.

297 (4) Except as otherwise provided herein, any malt beverages
298 in individual containers held or possessed in the state for the
299 purpose of sale or resale within the state which do not bear the
300 word "Florida" or "FL" thereon shall, at the direction of the
301 division, be confiscated in accordance with the provisions of
302 the Beverage Law.

303 (5) (a) Nothing contained in this section shall require that
304 malt beverages packaged in individual containers and possessed
305 by any person in the state for purposes of sale or resale in the
306 state have imprinted thereon the word "Florida" or "FL" if the
307 manufacturer of the malt beverages can establish before the
308 division that the manufacturer has a tracking system in place,
309 by use of code or otherwise, which enables the manufacturer,
310 with at least 85 percent reliability by July 1, 1996, and 90
311 percent reliability by January 1, 2000, to identify the
312 following:

313 1. The place where individual containers of malt beverages
314 were produced;

315 2. The state into which the individual containers of malt
316 beverages were shipped; and

317 3. The individual distributors within the state which
318 received the individual containers of malt beverages.

319 (b) Before ~~Prior to~~ shipping individual containers of malt

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320 beverages into the state which do not have the word "Florida" or
321 "FL" imprinted thereon, the manufacturer must file an
322 application with the division to claim the exemption contained
323 herein and must obtain approval from the division to ship
324 individual containers of malt beverages into the state which do
325 not have the word "Florida" or "FL" imprinted thereon.
326 Information furnished by the manufacturer to establish the
327 criteria contained within paragraph (a) may be subject to an
328 annual audit and verification by the division. The division may
329 revoke an approved exemption if the manufacturer refuses to
330 furnish the information required in paragraph (a) upon request
331 of the division, or if the manufacturer fails to permit a
332 subsequent verification audit, or if the manufacturer fails to
333 fully cooperate with the division during the conducting of an
334 audit.

335 (c) When a distributor has information that malt beverages
336 may have been shipped into Florida on which payment of Florida
337 excise taxes has not been made, such information may be provided
338 to the division and the division shall investigate to ascertain
339 whether any violations of Florida law have occurred.

340 (6) All malt beverages packaged in individual containers
341 sold or offered for sale by vendors at retail in this state,
342 except for malt beverages sold in growlers pursuant to
343 subsection (7), must ~~shall~~ be in individual containers
344 containing no more than 32 ounces of such malt beverages.
345 ~~provided, however, that nothing contained in~~

346 (7) (a) The filling or refilling of a growler is limited to:

347 1. A manufacturer of malt beverages who holds a valid
348 vendor's license pursuant to s. 561.221(2) if the growler is

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349 filled or refilled with malt beverages manufactured on the
350 licensed premises for sale for off-premises consumption to
351 consumers in a face-to-face transaction on the licensed
352 premises; or

353 2. A vendor holding a quota license under ss. 561.20(1) and
354 565.02(1)(a) with malt beverages authorized under that license
355 for sale for off-premises consumption to consumers in a face-to-
356 face transaction on the licensed premises.

357 (b) The growler must have an unbroken seal, or its contents
358 must be incapable of being immediately consumed.

359 (c) The growler must be clearly labeled as containing an
360 alcoholic beverage and provide the name of the manufacturer, the
361 brand, the volume, the percentage of alcohol by volume, and the
362 required federal health warning notice for alcoholic beverages.
363 If a growler being refilled has an existing label or other
364 identifying mark of a manufacturer or brand from a prior filling
365 or refilling, that label must be covered sufficiently to
366 indicate the manufacturer and brand of the malt beverage being
367 placed in the container at that refilling.

368 (d) The growler must be clean before being filled or
369 refilled.

370 (e) A licensee authorized to fill and refill growlers may
371 not use growlers for purposes of distribution or sale outside
372 the manufacturer's or vendor's licensed premises, except as
373 authorized under this subsection and s. 561.221(2).

374 (8) This section does not ~~shall~~ affect malt beverages
375 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual
376 container containing 1 gallon or more of such malt beverage
377 regardless of individual container type.

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378 (9)~~(7)~~ Any person, firm, or corporation, or any of its
379 agents, officers or employees, which violates ~~violating any of~~
380 ~~the provisions of~~ this section commits, ~~shall be guilty of a~~
381 misdemeanor of the first degree, punishable as provided in s.
382 775.082 or s. 775.083; and the license, if any, is ~~shall be~~
383 subject to revocation or suspension by the division.

384 Section 7. If any provision of this act or its application
385 to any person or circumstance is held invalid, the invalidity
386 does not affect other provisions or applications of the act
387 which can be given effect without the invalid provision or
388 application, and to this end the provisions of this act are
389 severable.

390 Section 8. This act shall take effect July 1, 2014.