

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 655 City of Jacksonville, Duval County

SPONSOR(S): Fullwood

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|---------|--|
| 1) Local Government Affairs Subcommittee | 7 Y, 0 N | Darden | Miller |
| 2) Business & Professions Subcommittee | 13 Y, 0 N | Butler | Anstead |
| 3) Local & Federal Affairs Committee | 13 Y, 1 N | Darden | Kiner |

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses who wish to serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a Special Restaurant Beverage license (SRX), which allows a restaurant to sell any alcoholic beverage, including liquor, under certain circumstances.

Under general law, a restaurant may be issued an SRX license if it has at least 2,500 square feet of service area, is equipped to serve 150 full-service customers, and derives at least 51 percent of the its gross revenue from the sale of food and non-alcoholic beverages.

Currently, under a local exception, a restaurant in certain designated areas of Jacksonville may be issued an SRX license if it has at least 1,800 square feet of service area, is equipped to serve at least 100 full-service customers, and derives at least 51 percent of the its gross revenue from the sale of food and non-alcoholic beverages.

The bill expands the areas of Jacksonville where a restaurant may be issued an SRX license under the reduced requirements of the local exception to include the Riverside Avondale Urban Transition Area and the Riverside Avondale Commercial Character Areas.

The bill takes effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco (Division) within DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell malt beverages or wine; however, s. 561.20, F.S., limits the number of licenses that may be issued for licenses under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three (3) licenses per county that has approved the sale of intoxicating liquors.¹ This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.²

There are several exceptions to the quota license limitation, and businesses who meet the requirements set out in one of the exceptions pursuant to s. 561.20(2), F.S., may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.

One such license is the SRX license, which may be issued to a "restaurant having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages" so long as any alcoholic beverages sold under such license is for on premises consumption only.³ Some older restaurants may qualify at a lower total gross revenue threshold.⁴ A restaurant must offer full course meal service at any time alcohol beverages are being served to qualify for a license.⁵ A full course meal must contain a salad or vegetable, entrée, beverage, and bread.⁶

Jacksonville Special Zone

In 1987, the Legislature created more lenient requirements for the issuance of SRX licenses in a special zone in Jacksonville.⁷ At the time, the zone included three areas: Northside West, Northside East, and Southbank.⁸ The zone was expanded in 2011 to include the Urban Transition area.⁹

A restaurant in the zone must still derive at least 51 percent of its total gross revenue from the sale of food and non-alcoholic beverages to qualify for a SRX license, but is only required to have 1,800 or more square feet of floor space and accommodations for the service and seating of at least 100 full-service customers.¹⁰ The issuance of the license is also subject to any zoning requirement establishing

¹ Section 561.20(1), F.S.

² Section 565.02, F.S.

³ Section 561.20(2)(a)4., F.S.

⁴ Rule 61A-3.0141, F.A.C. This provision applies to all licenses issued after April 18, 1972. For licenses issued between September 1, 1969 and April 18, 1972, at least thirty percent of the restaurant's total gross revenue must be derived from the sale of food and non-alcoholic beverages; for licenses issued prior to September 1, 1969, there is no minimum gross revenue threshold, but the restaurant must be "bona fide" and meet the other requirements of the rule.

⁵ *Id.*

⁶ *Id.*

⁷ Ch. 87-471, Laws of Fla.

⁸ *Id.*

⁹ Ch. 2011-255, Laws of Fla.

¹⁰ ch. 87-471, Laws of Fla.

a minimum distance between liquor-serving establishments and schools or churches, as well as any state alcoholic beverage law not otherwise inconsistent with the special act.¹¹

Effect of Proposed Changes

The bill expands the special zone created by Ch. 87-471, Laws of Florida, to include the areas known as Riverside Avondale Commercial Character Areas. The bill also clarifies that the “Urban Transition” area added to the special zone by Ch. 2011-255, Laws of Fla., should be referred to as the “Riverside Avondale Urban Transition.”

This bill was unanimously approved by members of the Duval County local legislative delegation present and voting at the delegation public meeting held on September 24, 2015.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

B. SECTION DIRECTORY:

Section 1: Amends Ch. 87-471, Laws of Florida, to add additional areas to a special zone in downtown Jacksonville in which DPBR can grant an SRX license to restaurants notwithstanding the provisions of s. 561.20(1), F.S.

Section 2: Provides that the bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 28, 2015

WHERE? *Financial News & Daily Record*, a daily (except Saturday and Sunday) newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

¹¹ *Id.*

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.