

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1647 City of Orlando, Orange County

**SPONSOR(S):** Plasencia

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Renner	Miller
2) Regulatory Reform Subcommittee	17 Y, 0 N	Willson	Anstead
3) State Affairs Committee	22 Y, 0 N	Renner	Williamson

### 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. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a special food service license, which allows a food service establishment to sell any alcoholic beverage, including liquor, under certain circumstances. Under general law, a food service establishment may be issued a Special Food Service License if it has at least 2,500 square feet of service area, is equipped to serve meals to 150 customers simultaneously, and derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill creates an exception to general law by requiring DBPR to issue special alcoholic beverage licenses to bona fide restaurants in the Orlando Main Street Small Restaurant Incentive Area that are licensed by the Division of Hotels and Restaurants, have at least 1,800 square feet of contiguous space, are equipped to serve meals to at least 80 persons at one time, and derive at least 51 percent of their gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period after licensure, and each 12-month operating period thereafter.

The bill provides that the license will be revoked if the licensee fails to meet the 51 percent food and nonalcoholic beverage gross revenue requirement. A licensee whose license is revoked, an applicant whose pending application for permanent license is denied, or any person required to qualify for the license, may not have any interest in a subsequent special food service establishment license application for a period of 120 days after the date of the final denial or revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

**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 (DABT) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages under Florida's Beverage Law.<sup>1</sup>

The Beverage Law does not limit the number of licenses DABT may issue to businesses who wish to sell malt beverages or wine.<sup>2</sup> However, the Beverage Law limits the number of licenses that may be issued allowing a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.<sup>3</sup> This license, often referred to as a "quota license," is limited to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.<sup>4</sup>

There are several exceptions to the quota license limitation, and businesses meeting the requirements set out in statute<sup>5</sup> may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcoholic content.

The special food service license is one such license. DBPR may issue a special food service license to a food service establishment having 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.<sup>6</sup> Before DBPR will issue a special food service license, the business must have a valid food service establishment license issued by the state agency with proper jurisdiction.<sup>7</sup>

#### **Effect of the Bill**

The bill creates an exception to s. 561.20(1), F.S., by requiring DBPR to issue special alcoholic beverage licenses to bona fide restaurants in the Orlando Main Street Small Restaurant Incentive Area that are licensed by the Division of Hotels and Restaurants, have at least 1,800 square feet of contiguous space, are equipped to serve meals to at least 80 persons at one time, and derive at least 51 percent of their gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period after licensure, and each 12-month operating period thereafter.

The bill provides that failure of a licensee who is issued a special license to meet the 51 percent food and nonalcoholic beverage gross revenue requirement during the covered operating period will result in revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee, applicant, or any person required to qualify on the license application who has his or her license revoked, or pending application for permanent license denied, may not apply for a subsequent license for a period of 120 days after the date of the final denial or revocation.

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<sup>1</sup> Chs. 561-565 and 567-568, F.S.

<sup>2</sup> See ss. 563.02 and 564.02, F.S.

<sup>3</sup> S. 561.20(1), F.S. See s. 565.02(1)(a)-(f), F.S.

<sup>4</sup> S. 561.20(1), F.S.

<sup>5</sup> S. 561.20(2), F.S.

<sup>6</sup> S. 561.20(2)(a)4., F.S.

<sup>7</sup> Rule 61A-3.0141(2), F.A.C.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

**B. SECTION DIRECTORY:**

Section 1. Creates the Orlando Main Street Small Restaurant Incentive Areas special zone.

Section 2. Creates an exception to general law; providing space, seating, and minimum gross revenue requirements for special alcoholic beverage licenses for certain restaurants.

Section 3. Provides an effective date of upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 29, 2021

WHERE? *Orlando Sentinel*, a daily newspaper published in Orange County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.