The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Bradley, Chair
Senator Margolis, Vice Chair

MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
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
	A proposed committee substitute for the following bill (SB 186) is expected to be considered:		
1	**SB 186** Latvala (Similar H 301, Compare H 107)	Malt Beverages; Authorizing the sale of malt beverages packaged in individual containers of certain sizes if they are filled at the point of sale by certain licenseholders; requiring each container to be imprinted or labeled with certain information, etc. RI 02/04/2015 Temporarily Postponed RI 02/18/2015 Fav/CS CM FP	Fav/CS Yeas 11 Nays 0
2	**SB 394** Brandes (Similar CS/H 277)	Public Lodging Establishments; Requiring specified public lodging establishments to waive certain policies for individuals who present a valid military identification card, etc. RI 02/18/2015 Fav/CS CM MS	Fav/CS Yeas 11 Nays 0
3	**SB 168** Negron (Identical H 97, Compare H 709, S 500)	Mobile Home Parks; Revising the definition of the term “mobile home park” to clarify that it includes certain lots or spaces regardless of the rental or lease term’s length or person liable for ad valorem taxes; providing that the act is remedial and intended to clarify existing law and to abrogate an interpretation of such law by the Department of Business and Professional Regulation; providing for retroactive application, etc. RI 02/18/2015 Favorable CA JU	Favorable Yeas 11 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 226** Latvala (Identical H 239, Compare H 187, S 262)	Racing Animals; Revising the prohibition on the use of certain medications or substances on racing animals; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to solicit input from the Department of Agriculture and Consumer Services; requiring the division to notify the owners or trainers, stewards, and the appropriate horsemen's association of all drug test results; expanding violations to include prohibited substances that break down during a race found in specimens collected after a race, etc. RI 02/18/2015 Fav/CS AG AP	Fav/CS Yeas 11 Nays 0
5	Presentation on the Indian Gaming Compact		Presented
	Other Related Meeting Documents		

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	PCS/SB 186 (123552)
INTRODUCER:	Regulated Industries Committee
SUBJECT:	Malt Beverages
DATE:	February 4, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Pre-meeting**
2.			CM	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 186 (123552) revises the requirements for qualifying as a vendor-licensed brewer. The bill authorizes the division to issue vendor's licenses to a manufacturer of malt beverages for the sale of alcoholic beverages on property that includes a brewery. It deletes the requirement that the licensed property must include "other structures which promote the brewery and the tourist industry of the state" in order to be eligible to be a vendor-licensed brewer. It also deletes the requirement that the property may be divided by no more than one public street or highway.

The bill deletes the prohibition against malt beverage tastings at locations licensed for off-premises sales only. It permits malt beverage tastings on the licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on the premises. A vendor authorized to sell alcoholic beverages only in sealed containers for consumption off the premises may have malt beverage tastings if: the premises has at least 10,000 square feet of interior space or the premises is a package store with a quota license that is licensed for off-premises sales only. The malt beverages tastings must be limited to and directed to members of the general public of the age of legal consumption. The bill clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

The bill permits the filling and refilling of 32, 64, and 128 ounce malt beverage containers (known as "growlers") at the point of sale. Current law does not permit the 64 ounce malt beverage container. The 32, 64, or 128 ounce malt beverage container may be filled at the point of sale by vendor- licensed brewers, vendor who hold a quota alcoholic beverage license for the

sale of beer, wine, and liquor only in sealed containers for consumption off the premises, and vendors licensed to sell for consumption on the licensed premises, unless such license restricts the consumption of malt beverages to the premises only.

The bill requires that the growler identify or be imprinted or labeled with information specifying the manufacturer, the brand of the malt beverage, and the anticipated percentage of alcohol by volume. The container must also have an unbroken seal or be incapable of being immediately consumed.

It provides that a violation of the provisions in the bill is a first degree misdemeanor. It also authorizes the Division of Alcoholic Beverage and Tobacco with the Department of Business and Professional Regulation to impose a fine of up to $250 per violation.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,[1] which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.[3]

Three Tier System

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the "three-tier system." The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers (vendors) must buy their products from distributors who in turn buy their products from the manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is deeply rooted in the perceived evils of the "tied house" in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.[4]

In the three-tier system, each license classification has clearly delineated functions. For example, in Florida, distributors are licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages at retail.[5] Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.[6] Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturer, or bottler.[7] Licensed manufacturers, distributors, and registered exporters are prohibited from being licensed as vendors.[8] In addition from being prohibited from having an interest in a vendor,

[1] The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S. *See* s. 561.01(6), F.S.
[2] *See* s. 561.14, F.S.
[3] Section 561.02, F.S.
[4] Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf (last visited January 23, 2015).
[5] Section 561.14(2), F.S.
[6] Section 561.14(3), F.S. However, see discussion regarding the exceptions provided in s. 561.221, F.S.
[7] Section 561.14(3), F.S. Vendors may buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.
[8] Section 561.22, F.S.

manufacturers are also prohibited from distributing directly to a vendor other than to a vendor licensed under s. 561.221(2), F.S.[9] However, a manufacturer of wine may be licensed as a distributor.[10]

There are some exceptions to this regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,[11] allowing individuals to bring small quantities of alcohol back from trips out-of-state,[12] and allowing in-state wineries to manufacture and sell directly to consumers.[13]

Exception for Vendor-licensed Malt Beverage Manufacturers

There are two license options that permit malt beverage manufacturers to sell malt beverages directly to consumers. Section 561.221(2), F.S., permits a manufacturer of malt beverages to be licensed as a vendor, even if the manufacturer is also licensed as a distributor. To qualify for a vendor license, the manufacturer's property must consist of a single complex that includes a brewery and other structures that promote the brewery and the tourism industry of the state. The property may be divided by no more than one public street or highway. This type of license does not limit the amount of malt beverages that may be manufactured. It also does not limit the type of vendor license that the manufacturer may obtain, e.g., a license to sell beer, wine and liquor, and licenses that permit package sales of other alcoholic beverages.

Section 561.221(3), F.S., permits a vendor to also be licensed as a manufacturer of malt beverages if the vendor is engaged in brewing malt beverages at a single location in an amount that does not exceed 10,000 kegs per year.[14] The malt beverages must be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor. These vendors are known in the industry as "brew pubs."

Vendor Licenses

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor[15] along with beer and wine that may be issued per county. The number of licenses is limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number.

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[9] Section 563.022(14), F.S.
[10] Section 561.221(1)(a), F.S.
[11] *See* s. 561.221(2), F.S., which permits the limited manufacture of beer by vendors (brew pubs).
[12] *See* s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.
[13] *See* s. 561.221, F.S.
[14] Section 561.221(3)(a)1., F.S., defines the term "keg" as 15.5 gallons.
[15] Section 565.01, F.S., defines liquor as "[t]he words "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced."

Section 565.02(1)(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine and distilled spirits, regardless of alcoholic content.

On-Premises or Off-Premises Consumption Alcoholic Beverage Licenses

Section 563.02, F.S., distinguishes between places of business where a vendor is licensed to only sell malt beverages for on-premises consumption[16] and places of business where such on-premises consumption is permitted.[17] According to the department, vendors licensed to sell malt beverages for on-premises consumption can also sell alcoholic beverages in sealed containers for the customer to take away from the licensed premises for off-premises consumption. Vendors licensed to sell malt beverages for consumption "only" on the licensed premises are not permitted to sell alcoholic beverages for off-premises consumption.[18] The license fee for a license that does not permit the sale of alcoholic beverages in sealed containers for off-premises consumption is 50 percent less than the license fee for a license that permits the sale of sealed containers for off-premises consumption.[19]

Venders licensed under s. 564.02(1)(a), F.S., to sell malt beverages, wine, and fortified wine may only sell the beverages for consumption off the premises. Similarly, vendors licensed under s. 565.02(1)(a), F.S., to sell any alcoholic beverages (which includes liquor), may only sell the beverages in sealed containers for consumption off the premises. The license fees for these vendors are 50 percent and 75 percent of the license fee, respectively, compared to the fee for a license that permits the sale of sealed containers for consumption on and off the premises.

According to alcoholic beverage industry representatives and a representative for the division, vendors with on-premises licenses routinely fill containers with a malt beverage and seal them for customers to take off-premises for later consumption. They note that current law does not prohibit this practice. The vendors typically seal the beverage container before the consumer leaves the premises so that the consumer will not violate any local ordinances that prohibit the carrying in public of open containers of alcoholic beverages or the state-law prohibition against the possession of open containers of alcoholic beverages in vehicles.[20] The beverage law does not define the term "sealed container."

In 1995, the department repealed a rule which explicitly stated that an on-premises malt beverage licensee could sell malt beverages, for consumption off-premises, in "sealed containers" and could also sell wine and distilled spirits in the "original sealed containers as received from the distributor."[21]

[16] *See* s. 563.02(1)(a), F.S.
[17] *See* s. 563.02(1)(b)-(f), F.S.
[18] For example, the brew pub exemption under s. 561.221(3), F.S., permits sales for consumption only on the premises, but not sales for consumption off the premises.
[19] *See* s. 563.02(1)(a), F.S.
[20] Section 316.1936, F.S.
[21] Rule 7A-1.008, F.A.C., as amended on March 10, 1985. This rule was subsequently transferred to rule 61A-1.008, F.A.C., and then repealed on July 5, 1995.

Malt Beverage Containers

Section 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces (one quart). However, malt beverages may be packaged in bulk, kegs, barrels, or in any individual container containing one gallon or more of a malt beverage regardless of individual container type.

Prior to 2001, s. 563.06(6), F.S., provided that malt beverages could be sold by vendors only in 8, 12, 16, or 32-ounce individual containers. Chapter 2001-78, L.O.F., amended that section to allow vendors to sell malt beverages in individual containers of "no more than 32 ounces."[22] The current provision that allows containers of one gallon or more was unaffected by that amendment.

Section 563.06 (7), F.S., provides that any person, firm, or corporation, its agents, officers or employees, violating any of the provisions of s. 563.06, F.S., is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.[23] It also provides that the license, if any, shall be subject to revocation or suspension by the division.

Growlers

Some states permit vendors to sell malt beverages in containers known as "growlers,"[24] which typically are reusable containers of between 32 ounces and one gallon that the consumer can fill with the vendor's malt beverage for consumption off the licensed premises. According to a representative for several vendors who manufacture malt beverages, the national standard size for a growler is 64 ounces. Florida law does not permit the use of a 64-ounce growler, i.e., 64-ounce malt beverage containers.

Tied House Evil Prohibitions

Section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting 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. Specifically, s. 561.42(1), F.S., provides in part:

> No licensed manufacturer or distributor of any of the beverages herein referred to shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such licensed manufacturer or distributor 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. No licensed vendor shall accept, directly or indirectly, any gift or

[22] *See also Review of the Malt Beverage Container Size Restrictions*, Interim Report No. 2000-65, Florida Senate Committee on Regulated Industries, September 1999.

[23] Section 775.082, F.S., provides that the penalty for misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S. provides that the penalty for misdemeanor of the first degree is punishable by a fine not to exceed $1,000.

[24] The term "growlers" is derived from the late 1800s and early 1900s practice in which fresh beer was carried from the local pub to one's home by means of a small-galvanized pail. When the beer sloshed around the pail, it created a rumbling sound as the carbon dioxide escaped through the lid. *See* "*The Growler: Beer-to-Go!*," Beer Advocate (July 31, 2002). A copy of the article is available at: http://beeradvocate.com/articles/384 (Last visited January 13, 2014).

> loan of money or property of any description or any rebates from any such licensed manufacturer or distributor; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. (Emphasis supplied.)

Section 561.42(8), F.S., authorizes the division to establish rules and require reports to enforce limitation on credits and other forms of assistance. This rulemaking authority does not extend to cash deposits on beer sales, as provided in s. 563.08, F.S.

Section 561.42, F.S., defines the types of items or services that may be provided to vendors. For example, s. 561.42(10), F.S., prohibits manufacturers, distributors, importers, primary American sources of supply,[25] or brand owners or registrants, or their brokers, sales agents or sales persons, from directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise.

Alcoholic Beverage Tastings

Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor's premises that is licensed for off-premises sales only. This prohibition applies to manufacturers, distributers, importers, brand owners or brand registrants of beer, and their sales agents or sales persons.

Section 564.08, F.S., permits licensed wine distributors and vendors to conduct wine tastings at any licensed premises authorized to sell wine or spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the wine tasting is limited to and directed toward the general public of the age of legal consumption.

Section 565.17, F.S., permits licensed distributors of spirituous beverages and vendors to conduct spirituous beverage tastings at any licensed premises authorized to sell spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the spirituous beverage tasting is limited to and directed toward the general public of the age of legal consumption.

[25] Section 564.045(1), F.S., defines the term "primary American source of supply" as the:

> manufacturer, vintner, winery, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases vinous beverages from a manufacturer, vintner, winery, or bottler who represents that there is no primary American source of supply for the brand and such applicant must petition the division for approval of licensure.

III. Effect of Proposed Changes:

Vendor-Licensed Brewers

The bill amends s. 561.221(2), F.S., to revise the requirements for qualifying as a vendor-licensed brewer. The bill clarifies that the exemption for vendor-licensed brewers in s. 561.221(2), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the Beverage Law.

The bill authorizes the division to issue vendor's licenses to a manufacturer of malt beverages for the sale of alcoholic beverages on property that includes a brewery. The bill repeals the requirement that a brewery must include "other structures which promote the brewery and the tourist industry of the state" in order to be eligible to be a vendor-licensed brewer. It also deletes the requirement that the property may be divided by no more than one public street or highway.

Malt Beverage Tastings

The bill amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. The bill permits a manufacturer, distributor, importer, or contracted third-party agent thereof, to conduct malt beverage tastings to be held on:

- The licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on premises; or
- The licensed premises of any vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises if:
  - The licensed premises has at least 10,000 square feet of interior floor space exclusive of storage space; or
  - The licensed premises is a package store licensed under s. 565.02(1)(a) F.S.

The malt beverages tastings must be limited to and directed to members of the general public of the age of legal consumption.

The bill provides that s. 561.42(14)(e), F.S., does not preclude a vendor, including a vendor or manufacturer licensed under s. 561.221(2) or (3), F.S., from conducting a malt beverage tasting on its licensed premises with beverages from their own inventory.

Growler Sales

The bill creates s. 563.0614, F.S., to provide for the filling and refilling of growlers, including 32, 64, and 128 ounce growlers, by specified vendors.

Section 563.0614(1), F.S., permits malt beverages to be packaged in individual containers of 32 ounces, 64 ounces, or 128 ounces if the container is filled at the point of sale by any of following licensees:

- Vendor- licensed brewers licensed pursuant to s. 561.221(2), F.S.;
- Vendors holding a quota license under ss. 561.20(1) and 565.02(1)(a), F.S., i.e., vendors licensed to sell alcoholic beverages only in sealed containers for consumption off the premises; and

- A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), F.S., which authorize consumption of malt beverages on the premises, unless such license restricts the consumption of malt beverages to the premises only.

Vendors licensed to sell beverages only for off premises consumption would not be authorized to sell growlers.

Section 563.0614(4), F.S., requires that the growler must identify or be imprinted or labeled with information specifying:
- The manufacturer;
- The brand of the malt beverage; and
- The anticipated percentage of alcohol by volume.

The bill also requires that the container have an unbroken seal or be incapable of being immediately consumed.

The bill provides that a violation of the provisions in s. 563.0614, F.S., are a first degree misdemeanor.[26] It also authorizes the division to impose a fine of up to $250 for a violation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[26] *Supra* at n. 23.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation (department), the bill requires minimal increase in the department's workload which can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 561.221 and 561.42, Florida Statutes.
This bill creates section 563.0614, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

PCS (123552) by Regulated Industries Committee on February 4, 2015:
The proposed committee substitute (PCS) is substantively different from SB 186 as follows:

The PCS amends s. 561.221(2), F.S., to provide that the division may issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverage on property that includes a brewery. It also repeals the requirements that property must include "other structures which promote the brewery and the tourist industry of the state" and the requirement that the property may be divided by no more than one public street or highway.

The PCS amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. It permits malt beverage tastings at locations licensed for on-premises consumption and off-premises consumption. It limits the locations that where malt beverage tastings may be conducted. The PCS bill clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

The PCS amends s. 563.0614(2), F.S., to require the labeling of the anticipated percentage of alcohol by volume.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 18 - 32
and insert:
Section 1. Subsection (2) of section 561.221, Florida Statutes, is amended to read:
561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—
(2)(a) Notwithstanding s. 561.22, s. 561.42, or any other

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provision of the Beverage Law, the division is authorized to issue vendor's licenses to a manufacturer of malt beverages, even if such manufacturer is also licensed as a distributor, for the sale of alcoholic beverages on property consisting of a single complex, which property shall include a brewery ~~and such other structures which promote the brewery and the tourist industry of the state~~. ~~However, such property may be divided by no more than one public street or highway.~~ Notwithstanding any other provision of the Beverage Law, a manufacturer holding multiple manufacturing licenses may transfer malt beverages to a licensed facility, as provided in s. 563.022(14)(d), in an amount up to the yearly production amount at the receiving facility. Malt beverages and other alcoholic beverages manufactured by another licensed manufacturer, including any malt beverages that are owned in whole or in part by the manufacturer but are brewed by another manufacturer, must be obtained through a licensed distributor that is not also a licensed manufacturer, a licensed broker or sales agent, or a licensed importer. A manufacturer possessing a vendor's license under this subsection is not permitted to make deliveries under s. 561.57(1).

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Between lines 4 and 5

insert:

providing restrictions on the sale of malt beverages;

prohibiting the delivery of certain malt beverages;

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580-01397A-15

Proposed Committee Substitute by the Committee on Regulated Industries

A bill to be entitled

An act relating to malt beverages; amending s. 561.221, F.S.; revising the exception for the licensing of malt beverage manufacturers as vendors; amending s. 561.42, F.S.; authorizing malt beverage tastings upon certain licensed premises; creating s. 563.0614, F.S.; authorizing the sale of malt beverages packaged in individual containers of certain sizes if they are filled at the point of sale by certain licenseholders; requiring each container to be imprinted or labeled with certain information and have an unbroken seal or be incapable of being immediately consumed; providing penalties; providing an effective date.

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

Section 1. Subsection (2) of section 561.221, Florida Statutes, is amended to read:

561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—

(2) Notwithstanding s. 561.22, s. 561.42, or any other provision of the Beverage Law, the division may ~~is authorized to~~ issue vendor's licenses to a manufacturer of malt beverages, even if the ~~such~~ manufacturer is also licensed as a distributor, for the sale of alcoholic beverages on property that includes a

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brewery ~~consisting of a single complex , which property shall include a brewery and such other structures which promote the brewery and the tourist industry of the state. However, such property may be divided by no more than one public street or highway~~.

Section 2. Paragraph (e) of 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 shall not conflict with or be more stringent than the federal regulations pertaining to such promotional displays and advertising furnished to vendors by distributors, manufacturers, importers, primary American sources of supply, or brand owners or registrants, or any broker, sales agent, or sales person thereof; however:

(e) A manufacturer, distributor, or importer of malt beverages, or any contracted third-party agent thereof, may ~~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 the tasting of malt beverage products on: ~~their product at a vendor's premises licensed for off-premises sales only.~~

1. The licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on premises; or

2. The licensed premises of any vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises if:

a. The licensed premises is at an establishment having at least 10,000 square feet of interior floor space exclusive of storage space not open to the general public; or

b. The licensed premises is a package store licensed under s. 565.02(1)(a) selling their product at a vendor's premises licensed for off-premises sales only.

A malt beverage tasting conducted under this paragraph must be limited to and directed toward the general public of the age of legal consumption. This paragraph does not preclude a vendor, including a vendor or manufacturer licensed pursuant to s. 561.221(2) or (3), from conducting a malt beverage tasting on its licensed premises using malt beverages from its own inventory.

Section 3. Section 563.0614, Florida Statutes, is created to read:

563.0614 Malt beverage container sizes.—

(1) Notwithstanding any other provision of the Beverage Law, a malt beverage may be packaged in an individual container of 32, 64, or 128 ounces if it is filled at the point of sale by any of the following:

(a) A licensed manufacturer of malt beverages which holds a vendor's license under s. 561.221(2).

(b) A vendor holding a quota license that authorizes the sale of malt beverages under ss. 561.20(1) and 565.02(1)(a).

(c) A vendor holding a license under s. 563.02(1)(b)-(f),

s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless such license restricts the sale of malt beverages to consumption on the premises only.

(2) The container must identify or be imprinted or labeled with information specifying the manufacturer, the brand of the malt beverage, the anticipated percentage of alcohol by volume, and must have an unbroken seal or be incapable of being immediately consumed.

(3) A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the license held by the person, firm, or corporation, if any, is subject to revocation or suspension by the division. A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (2) may be subject to a fine by the division of up to $250.

Section 4. This act shall take effect July 1, 2015.

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 186
INTRODUCER:	Regulated Industries Committee and Senator Latvala
SUBJECT:	Malt Beverages
DATE:	February 18, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.			CM	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 186 revises the requirements for qualifying as a vendor-licensed brewer. The bill authorizes the division to issue vendor's licenses to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery. It deletes the requirement that the licensed property must include "other structures which promote the brewery and the tourist industry of the state" in order to be eligible to be a vendor-licensed brewer. It also deletes the requirement that the property may be divided by no more than one public street or highway.

The bill limits the amount of malt beverages that can be transferred between breweries owned by the same brewer to 100 percent of the yearly production of the receiving brewery. The bill provides that all malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the brewer must be obtained through a distributor, an importer, sales agent, or broker. The bill also prohibits vendor-licensed brewers from making deliveries.

The bill deletes the prohibition against malt beverage tastings at locations licensed for off-premises sales only. It permits malt beverage tastings on the licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on the premises. A vendor authorized to sell alcoholic beverages only in sealed containers for consumption off the premises may have malt beverage tastings if: the premises has at least 10,000 square feet of interior space or the premises is a package store with a quota license that is licensed for off-premises sales only. The malt beverages tastings must be limited to and directed to members of the general

public of the age of legal consumption. The bill clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

The bill permits the filling and refilling of 32, 64, and 128 ounce malt beverage containers (known as "growlers") at the point of sale. Current law does not permit the 64 ounce malt beverage container. The 32, 64, or 128 ounce malt beverage container may be filled at the point of sale by vendor- licensed brewers, vendor who hold a quota alcoholic beverage license for the sale of beer, wine, and liquor only in sealed containers for consumption off the premises, and vendors licensed to sell for consumption on the licensed premises, unless such license restricts the consumption of malt beverages to the premises only.

The bill requires that the growler must identify or be imprinted or labeled with information specifying the manufacturer, the brand of the malt beverage, and the anticipated percentage of alcohol by volume. The container must also have an unbroken seal or be incapable of being immediately consumed.

It provides that a violation of the provisions in the bill is a first degree misdemeanor. It also authorizes the Division of Alcoholic Beverage and Tobacco with the Department of Business and Professional Regulation to impose a fine of up to $250 per violation.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,[1] which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.[3]

Three Tier System

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the "three-tier system." The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers (vendors) must buy their products from distributors who in turn buy their products from the manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is deeply rooted in the perceived evils of the "tied house" in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.[4]

In the three-tier system, each license classification has clearly delineated functions. For example, in Florida, distributors are licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages at retail.[5] Only licensed vendors are

[1] The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S. *See* s. 561.01(6), F.S.
[2] *See* s. 561.14, F.S.
[3] Section 561.02, F.S.
[4] Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf (last visited January 23, 2015).
[5] Section 561.14(2), F.S.

permitted to sell alcoholic beverages directly to consumers at retail.[6] Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturer, or bottler.[7] Licensed manufacturers, distributors, and registered exporters are prohibited from being licensed as vendors.[8] In addition from being prohibited from having an interest in a vendor, manufacturers are also prohibited from distributing directly to a vendor other than to a vendor licensed under s. 561.221(2), F.S.[9] However, a manufacturer of wine may be licensed as a distributor.[10]

There are some exceptions to this regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,[11] allowing individuals to bring small quantities of alcohol back from trips out-of-state,[12] and allowing in-state wineries to manufacture and sell directly to consumers.[13]

Exception for Vendor-licensed Malt Beverage Manufacturers

There are two license options that permit malt beverage manufacturers to sell malt beverages directly to consumers. Section 561.221(2), F.S., permits a manufacturer of malt beverages to be licensed as a vendor, even if the manufacturer is also licensed as a distributor. To qualify for a vendor license, the manufacturer's property must consist of a single complex that includes a brewery and other structures that promote the brewery and the tourism industry of the state. The property may be divided by no more than one public street or highway. This type of license does not limit the amount of malt beverages that may be manufactured. It also does not limit the type of vendor license that the manufacturer may obtain, e.g., a license to sell beer, wine and liquor, and licenses that permit package sales of other alcoholic beverages.

Section 561.221(3), F.S., permits a vendor to also be licensed as a manufacturer of malt beverages if the vendor is engaged in brewing malt beverages at a single location in an amount that does not exceed 10,000 kegs per year.[14] The malt beverages must be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor. These vendors are known in the industry as "brew pubs."

[6] Section 561.14(3), F.S. However, see discussion regarding the exceptions provided in s. 561.221, F.S.
[7] Section 561.14(3), F.S. Vendors may buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.
[8] Section 561.22, F.S.
[9] Section 563.022(14), F.S.
[10] Section 561.221(1)(a), F.S.
[11] *See* s. 561.221(2), F.S., which permits the limited manufacture of beer by vendors (brew pubs).
[12] *See* s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.
[13] *See* s. 561.221, F.S.
[14] Section 561.221(3)(a)1., F.S., defines the term "keg" as 15.5 gallons.

Vendor Licenses

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor[15] along with beer and wine that may be issued per county. The number of licenses is limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number.

Section 565.02(1)(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine and distilled spirits, regardless of alcoholic content.

On-Premises or Off-Premises Consumption Alcoholic Beverage Licenses

Section 563.02, F.S., distinguishes between places of business where a vendor is licensed to only sell malt beverages for on-premises consumption[16] and places of business where such on-premises consumption is permitted.[17] According to the department, vendors licensed to sell malt beverages for on-premises consumption can also sell alcoholic beverages in sealed containers for the customer to take away from the licensed premises for off-premises consumption. Vendors licensed to sell malt beverages for consumption "only" on the licensed premises are not permitted to sell alcoholic beverages for off-premises consumption.[18] The license fee for a license that does not permit the sale of alcoholic beverages in sealed containers for off-premises consumption is 50 percent less than the license fee for a license that permits the sale of sealed containers for off-premises consumption.[19]

Venders licensed under s. 564.02(1)(a), F.S., to sell malt beverages, wine, and fortified wine may only sell the beverages for consumption off the premises. Similarly, vendors licensed under s. 565.02(1)(a), F.S., to sell any alcoholic beverages (which includes liquor), may only sell the beverages in sealed containers for consumption off the premises. The license fees for these vendors are 50 percent and 75 percent of the license fee, respectively, compared to the fee for a license that permits the sale of sealed containers for consumption on and off the premises.

According to alcoholic beverage industry representatives and a representative for the division, vendors with on-premises licenses routinely fill containers with a malt beverage and seal them for customers to take off-premises for later consumption. They note that current law does not prohibit this practice. The vendors typically seal the beverage container before the consumer

[15] Section 565.01, F.S., defines liquor as "[t]he words "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced."
[16] *See* s. 563.02(1)(a), F.S.
[17] *See* s. 563.02(1)(b)-(f), F.S.
[18] For example, the brew pub exemption under s. 561.221(3), F.S., permits sales for consumption only on the premises, but not sales for consumption off the premises.
[19] *See* s. 563.02(1)(a), F.S.

leaves the premises so that the consumer will not violate any local ordinances that prohibit the carrying in public of open containers of alcoholic beverages or the state-law prohibition against the possession of open containers of alcoholic beverages in vehicles.[20] The beverage law does not define the term "sealed container."

In 1995, the department repealed a rule which explicitly stated that an on-premises malt beverage licensee could sell malt beverages, for consumption off-premises, in "sealed containers" and could also sell wine and distilled spirits in the "original sealed containers as received from the distributor."[21]

Malt Beverage Containers

Section 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces (one quart). However, malt beverages may be packaged in bulk, kegs, barrels, or in any individual container containing one gallon or more of a malt beverage regardless of individual container type.

Prior to 2001, s. 563.06(6), F.S., provided that malt beverages could be sold by vendors only in 8, 12, 16, or 32-ounce individual containers. Chapter 2001-78, L.O.F., amended that section to allow vendors to sell malt beverages in individual containers of "no more than 32 ounces."[22] The current provision that allows containers of one gallon or more was unaffected by that amendment.

Section 563.06 (7), F.S., provides that any person, firm, or corporation, its agents, officers or employees, violating any of the provisions of s. 563.06, F.S., is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.[23] It also provides that the license, if any, shall be subject to revocation or suspension by the division.

Growlers

Some states permit vendors to sell malt beverages in containers known as "growlers,"[24] which typically are reusable containers of between 32 ounces and one gallon that the consumer can fill with the vendor's malt beverage for consumption off the licensed premises. According to a representative for several vendors who manufacture malt beverages, the national standard size for a growler is 64 ounces. Florida law does not permit the use of a 64-ounce growler, i.e., 64-ounce malt beverage containers.

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[20] Section 316.1936, F.S.

[21] Rule 7A-1.008, F.A.C., as amended on March 10, 1985. This rule was subsequently transferred to rule 61A-1.008, F.A.C., and then repealed on July 5, 1995.

[22] *See also Review of the Malt Beverage Container Size Restrictions*, Interim Report No. 2000-65, Florida Senate Committee on Regulated Industries, September 1999.

[23] Section 775.082, F.S., provides that the penalty for misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S. provides that the penalty for misdemeanor of the first degree is punishable by a fine not to exceed $1,000.

[24] The term "growlers" is derived from the late 1800s and early 1900s practice in which fresh beer was carried from the local pub to one's home by means of a small-galvanized pail. When the beer sloshed around the pail, it created a rumbling sound as the carbon dioxide escaped through the lid. *See* "*The Growler: Beer-to-Go!*," Beer Advocate (July 31, 2002). A copy of the article is available at: http://beeradvocate.com/articles/384 (Last visited January 13, 2014).

Deliveries by Vendors

Section 561.57(1), F.S., permits all vendors to make deliveries away from their places of business of sales actually made at the licensed place of business. Telephone or mail orders received at vendor's licensed place of business are construed as a sale actually made at the vendor's licensed place of business. However, deliveries made by a vendor away from his or her place of business may only be made in vehicles which are owned or leased by the licensee. By acceptance of an alcoholic beverage licensee, the vendor is presumed to agree to the inspection of such without a search warrant for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with.[25]

Tied House Evil Prohibitions

Section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting 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. Specifically, s. 561.42(1), F.S., provides in part:

> No licensed manufacturer or distributor of any of the beverages herein referred to shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such licensed manufacturer or distributor 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. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such licensed manufacturer or distributor; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. (Emphasis supplied.)

Section 561.42(8), F.S., authorizes the division to establish rules and require reports to enforce limitation on credits and other forms of assistance. This rulemaking authority does not extend to cash deposits on beer sales, as provided in s. 563.08, F.S.

Section 561.42, F.S., defines the types of items or services that may be provided to vendors. For example, s. 561.42(10), F.S., prohibits manufacturers, distributors, importers, primary American sources of supply,[26] or brand owners or registrants, or their brokers, sales agents or sales persons, from directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise.

[25] Section 561.57(2), F.S.

[26] Section 564.045(1), F.S., defines the term "primary American source of supply" as the:
manufacturer, vintner, winery, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases vinous beverages from a manufacturer, vintner, winery, or bottler who represents that there is no primary American source of supply for the brand and such applicant must petition the division for approval of licensure.

Alcoholic Beverage Tastings

Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor's premises that is licensed for off-premises sales only. This prohibition applies to manufacturers, distributers, importers, brand owners or brand registrants of beer, and their sales agents or sales persons.

Section 564.08, F.S., permits licensed wine distributors and vendors to conduct wine tastings at any licensed premises authorized to sell wine or spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the wine tasting is limited to and directed toward the general public of the age of legal consumption.

Section 565.17, F.S., permits licensed distributors of spirituous beverages and vendors to conduct spirituous beverage tastings at any licensed premises authorized to sell spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the spirituous beverage tasting is limited to and directed toward the general public of the age of legal consumption.

III. Effect of Proposed Changes:

Vendor-Licensed Brewers

The bill amends s. 561.221(2), F.S., to revise the requirements for qualifying as a vendor-licensed brewer. The bill clarifies that the exemption for vendor-licensed brewers in s. 561.221(2), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the Beverage Law.

The bill authorizes the division to issue vendor's licenses to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery. The bill deletes the requirement that a brewery must include "other structures which promote the brewery and the tourist industry of the state" in order to be eligible to be a vendor-licensed brewer. It also deletes the requirement that the property may be divided by no more than one public street or highway.

The bill amends s. 561.221(2), F.S., to limit the amount of malt beverages that can be transferred in a manufacturer-to-manufacturer transfer, as provided in s. 563.022(14)(d), F.S., to 100 percent of the yearly production of the receiving brewery. The bill also provides that all malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the brewer must be obtained through a distributor, an importer, sales agent, or broker. This requirement is the same as current law.[27]

The bill also prohibits vendor-licensed brewers from making deliveries under s. 561.57(1), F.S.

[27] *See* 561.14(3), F.S.

Malt Beverage Tastings

The bill amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. The bill permits a manufacturer, distributor, importer, or contracted third-party agent thereof, to conduct malt beverage tastings to be held on:

- The licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on premises; or
- The licensed premises of any vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises if:
  - The licensed premises has at least 10,000 square feet of interior floor space exclusive of storage space; or
  - The licensed premises is a package store licensed under s. 565.02(1)(a) F.S.

The malt beverages tastings must be limited to and directed to members of the general public of the age of legal consumption.

The bill provides that s. 561.42(14)(e), F.S., does not preclude a vendor, including a vendor or manufacturer licensed under s. 561.221(2) or (3), F.S., from conducting a malt beverage tasting on its licensed premises with beverages from their own inventory.

Growler Sales

The bill creates s. 563.0614, F.S., to provide for the filling and refilling of growlers, including 32, 64, and 128 ounce growlers, by specified vendors.

Section 563.0614(1), F.S., permits malt beverages to be packaged in individual containers of 32 ounces, 64 ounces, or 128 ounces if the container is filled at the point of sale by any of following licensees:

- Vendor- licensed brewers licensed pursuant to s. 561.221(2), F.S.;
- Vendors holding a quota license under ss. 561.20(1) and 565.02(1)(a), F.S., i.e., vendors licensed to sell alcoholic beverages only in sealed containers for consumption off the premises; and
- A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), F.S., which authorize consumption of malt beverages on the premises, unless such license restricts the consumption of malt beverages to the premises only.

Vendors licensed to sell beverages only for off premises consumption would not be authorized to sell growlers.

Section 563.0614(4), F.S., requires that the growler must identify or be imprinted or labeled with information specifying:

- The manufacturer;
- The brand of the malt beverage; and
- The anticipated percentage of alcohol by volume.

The bill also requires that the container have an unbroken seal or be incapable of being immediately consumed.

The bill provides that a violation of the provisions in s. 563.0614, F.S., are a first degree misdemeanor.[28] It also authorizes the division to impose a fine of up to $250 for a violation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation (department), the bill requires minimal increase in the department's workload which can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 561.221 and 561.42, Florida Statutes.
This bill creates section 563.0614, Florida Statutes.

[28] *Supra* at n. 23.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on February 18, 2015:
The committee substitute (CS) is substantively different from SB 186 as follows:

The CS amends s. 561.221(2), F.S., to provide that the division may issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverage on property consisting of a single complex that includes a brewery. It deletes the requirements that property must include "other structures which promote the brewery and the tourist industry of the state" and the requirement that the property may be divided by no more than one public street or highway.

The CS also amends s. 561.221(2), F.S., to limit the amount of malt beverages that can be transferred in a manufacturer-to-manufacturer transfer, as provided in s. 563.022(14)(d), F.S., to 100 percent of the yearly production of the receiving brewery. The CS provides that all malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the brewer must be obtained through a distributor, an importer, sales agent, or broker. The CS also prohibits vendor-licensed brewers from making deliveries under s. 561.57(1), F.S.

The CS amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. It permits malt beverage tastings at locations licensed for on-premises consumption and off-premises consumption. It provides that a vendor authorized to sell alcoholic beverages only in sealed containers for consumption off the premises may have malt beverage tastings if the premises has at least 10,000 square feet of interior space or the premises is a package store with a quota license that is licensed for off-premises sales only. The malt beverages tastings must be limited to and directed to members of the general public of the age of legal consumption. The CS bill clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

The CS amends s. 563.0614(2), F.S., to require the labeling of the anticipated percentage of alcohol by volume.

B. Amendments:

None.

By Senator Latvala

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A bill to be entitled

An act relating to malt beverages; creating s. 563.0614, F.S.; authorizing the sale of malt beverages packaged in individual containers of certain sizes if they are filled at the point of sale by certain licenseholders; requiring each container to be imprinted or labeled with certain information; requiring the containers to be sealed or incapable of being immediately consumed; providing penalties; providing an effective date.

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

Section 1. Section 563.0614, Florida Statutes, is created to read:

563.0614 Malt beverage container sizes.—

(1) Notwithstanding any other provision of the Beverage Law, a malt beverage may be packaged in an individual container of 32, 64, or 128 ounces if it is filled at the point of sale by any of the following:

(a) A licensed manufacturer of malt beverages which holds a vendor's license under s. 561.221(2).

(b) A vendor holding a quota license that authorizes the sale of malt beverages under ss. 561.20(1) and 565.02(1)(a).

(c) A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless such license restricts the sale of malt beverages for consumption on the premises only.

(2) The container must identify or be imprinted or labeled

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with information specifying the manufacturer and the brand of the malt beverage and must have an unbroken seal or be incapable of being immediately consumed.

(3) A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the license held by the person, firm, or corporation, if any, is subject to revocation or suspension by the division. A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (2) may be subject to a fine by the division of up to $250.

Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

January 14, 2015

The Honorable Senator Rob Bradley, Chair
Senate Committee on Regulated Industries
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request consideration of Senate Bill 186 regarding Malt Beverages. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible.

This bill would update Florida's alcohol beverage laws by legalizing the industry size standard for craft beer growlers and allowing the sale of malt beverages in a 64 oz. container.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Patrick Imhof, Staff Director; Lynn Koon, Administrative Assistant

REPLY TO:
❒ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
❒ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: *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)

2/18/15
Meeting Date

PCS for SB 186
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic MALT BEVERAGES

Name MATTHEW SOKOLOWSKI (SO-CO-LOSKY)

Job Title SUCCESSOR MANAGER / OWNER

Address 2310 STARKEY RD
Street

LARGO FL 33771
City *State* *Zip*

Phone 727-584-8626

Email matt@greatbaybud.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing GREAT BAY DISTRIBUTORS

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.18.15
Meeting Date

PCS for 186
Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Kevin Bowler

Job Title President - Daytona Beverages

Address 2275 Mason Ave
Street

Daytona Beach FL 32117
City *State* *Zip*

Phone 386-527-5623

Email kevinb@daytonabud.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Daytona Beverages

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

PCS for 196
Bill Number (if applicable)

123552
Amendment Barcode (if applicable)

Topic Malt Beverages

Name Mitch Rubin

Job Title Florida Beer Wholesalers Assn, Executive Director

Address 215 S. Monroe St. #340
Street

Phone 224-2337

Tallahassee, FL 32301
City *State* *Zip*

Email MRubin2505@aol.com

Speaking: [X] 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: [X] 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)

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)
	186

Amendment Barcode (if applicable)

Topic Malt Beverages

Name Danielle Alexandre

Job Title Lobbyist

Address 9851 SR 54 Phone 727-424-9530
Street

New Port Richey 34655 Email danielle@libertyfirstfl.org
City *State* *Zip*

Speaking: [X] For [ ] Against [ ] Information

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

Representing Liberty First Network

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

Lobbyist registered with Legislature: [X] 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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

SB 186
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 186

Name JAY MARTIN

Job Title PRESIDENT

Address 5102 16TH AVE SOUTH
Street

TAMPA FL 33619
City *State* *Zip*

Phone 813 743 6967

Email JAY_MARTIN@JJTAYLOR.COM

Speaking: [X] For [ ] Against [ ] Information

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

Representing ~~JJTA~~ J.J. TAYLOR DISTRIBUTING FLORIDA

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

SB186
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 186

Name Eric Criss

Job Title President

Address 110 S. Monroe
Street

Tallahassee, FL 32312
City *State* *Zip*

Phone 850.491.3903

Email eric@floridabeer.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Beer Industry of Florida

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)

2/13/15
Meeting Date

SB 186
Bill Number (if applicable)

Topic Beer Law SB 186

Amendment Barcode (if applicable)

Name Rebecca Maisel

Job Title General Counsel

Address 8425 Opportunity Drive
Street

Phone 251 3790960

Milton FL 32583
City *State* *Zip*

Email RMaisel@gulfdistributing.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Goldring Gulf Distributing Co., LLC

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)

February 18, 2015
Meeting Date

186
Bill Number (if applicable)

Topic Malt beverages

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Gen. Coun. / ED

Address 315 S. Calhoun
Street

Phone 224-7000

Tallahassee FL 32301
City *State* *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

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

186
Bill Number (if applicable)

Topic MALT BEVERAGES

Amendment Barcode (if applicable)

Name BYRON BURROUGHS

Job Title OWNER

Address 644 McDONNELL DR
Street

TALLAHASSEE FL 32310
City *State* *Zip*

Phone 850-443-6757

Email BYRON@PROOFBREWING CO.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing PROOF BREWING CO.

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)

2/18/15
Meeting Date

SB 18C
Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Justin Clark

Job Title Vice President

Address 3904 Spruce St W
Street

Phone 813-541-5747

Tampa FL 33607
City *State* *Zip*

Email justin@cigarcitybrewing.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Cigar City 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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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)

2/18/2015
Meeting Date

186
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Malt Beverages

Name Nathan Stonecipher

Job Title Owner: Green Bench Brewing

Address 1133 Baum Ave N
Street

Phone 727-214-7863

St. Petersburg FL 33705
City *State* *Zip*

Email Nathan@greenbenchbrewing.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

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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)

2/18/15
Meeting Date

SB 184
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Malt Beverages

Name Skylar Zander

Job Title Deputy State Director

Address 200 W College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850. 728. 4522

Email szander@AFPHQ.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

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)

SB 186

Meeting Date | *Bill Number (if applicable)*

Topic S 186 | *Amendment Barcode (if applicable)*

Name John Giotis

Job Title Headmaster

Address 851 Bayway BLVD | Phone 908-642-9958

Street

Clearwater Beach, FL 33767 | Email JK6225@hotmail.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 Safe Communities

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/2015
Meeting Date

SB 186
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JOSE L. GONZALEZ

Job Title VP STATE AFFAIRS

Address PO BOX 836
Street

TALLAHASSEE FL 32302
City *State* *Zip*

Phone 850-294-4057

Email jose.gonzalez@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

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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)

2/18/14
Meeting Date

SB 186
Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Jason Smith

Job Title Cable Splicer

Address 135 South Monroe St
Street

Phone 850-224-6926

Tallahassee FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IBEW 824

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)

THE FLORIDA SENATE

APPEARANCE RECORD

02-18-15 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 186

Meeting Date *Bill Number (if applicable)*

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Charles Bailes

Job Title CEO

Address *Street* Phone

Orlando Florida

City *State* *Zip* Email

Speaking: ☑ For ☐ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing ABC Fine Wine & Spirits

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)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 186
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE			2/04/2015 1 Motion to hear Proposed Committee Substitute Latvala		2/04/2015 2 Motion to Temporarily Postpone(PCS 123552) Latvala		2/18/2015 3 Amendment 931308	
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
X		Bean						
X		Braynon						
X		Diaz de la Portilla						
X		Flores						
X		Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
X		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
11	0	**TOTALS**	FAV	-	FAV	-	RCS	-
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 186
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
PLACE: 110 Senate Office Building

	2/18/2015 4 PCS 123552 as amended Latvala							
SENATORS	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
Abruzzo								
Bean								
Braynon								
Diaz de la Portilla								
Flores								
Latvala								
Negron								
Richter								
Sachs								
Stargel								
Margolis, VICE CHAIR								
Bradley, CHAIR								
TOTALS	RCS	-						
	Yea	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
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WD=Withdrawn
OO=Out of Order
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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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 394
INTRODUCER:	Regulated Industries Committee and Senator Brandes
SUBJECT:	Public Lodging Establishments
DATE:	February 18, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.			CM	
3.			MS	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 394 requires that public lodging establishments waive age restriction policies for active duty members of the United States Armed Services, the United States Reserve Forces, the National Guard, and the Coast Guard. The policy must be waived and the person must not be denied an accommodation on the basis of age upon the presentation of a valid Common Access Card, which is the standard military identification card. The bill also prohibits public lodging establishments from duplicating Common Access Cards.

II. Present Situation:

Public Lodging Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. At the end of FY 2013-2014, there were 38,472 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.[1]

[1] Annual Report, Fiscal Year 2013-2014, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr_annual_reports.html (last visited February 5, 2015).

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[2] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a "transient public lodging establishment" to mean:

> any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a "nontransient public lodging establishment" to mean:

> any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.[3] A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.[4]

Section 509.013(4)(b), F.S., exempts dormitories, hospital and medical establishments, residential units, migrant labor camps, and establishments inspected by the Department of Health from the definition of "public lodging establishment."

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, and timeshare project.[5]

The 38,472 public lodging establishments that were licensed by the division at the end of FY 2013-2014 were divided as follows:[6]

- Hotels - 1,720 licenses;
- Motels - 2,691 licenses;
- Nontransient apartments - 17,501 licenses;
- Transient apartments - 960 licenses;
- Bed and Breakfasts – 260 licenses;

[2] Section 509.013(4)(a), F.S.
[3] Section 509.242(1)(d), F.S.
[4] Section 509.242(1)(e), F.S.
[5] Section 509.242(1), F.S.
[6] *Supra* note 1.

- Vacation Rentals, Condominiums – 3,904 licenses; and
- Vacation Rentals, Dwellings – 11,436 licenses.

Right to Refuse Accommodations

Public lodging establishments are private enterprises and may refuse accommodations to any person who is objectionable or undesirable to the operator, so long as the refusal is not "based upon race, creed, color, sex, physical disability, or national origin."[7] Violations are resolved as civil actions under s. 760.11, F.S.[8] Public lodging establishments are also allowed to "establish reasonable rules and regulations for the management of the establishment," which become part of "a special contract between the operator and each guest or employee using the services or facilities of the operator."[9]

According to published reports, some public lodging establishments have policies that restrict accommodations to persons over a certain age. While employed by the military, or when traveling for military and personal purposes, some persons have been denied accommodations at public lodging establishments because of their age.[10]

United States Armed Forces

The United States Armed Forces consist of the Air Force, Army, Coast Guard, Marines, and Navy.[11]

Section 250.01(19), F.S., defines the term "servicemember" to mean "any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces."

The minimum enlistment requirements to join the Armed Forces require that a person must:

- Be a U.S. citizen or resident alien;
- Be at least 17 years old (17-year old applicants require parental consent);
- Have (with very few exceptions) a high school diploma; and

[7] Section 509.092, F.S.
[8] Section 760.11, F.S., requires aggrieved parties to file a complaint with the Florida Commission on Human Relations within 365 days of the alleged violation. The commission, a commissioner, or the Attorney General may also file such a complaint. The commission would then conduct an investigation to determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992. Upon a finding of reasonable cause, the aggrieved person may file a civil action in a court of competent jurisdiction or request an administrative hearing under ss. 120.569 and 120.57, F.S. The court may an order to prohibit the discriminatory practice and provide affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The court may also order the payment of reasonable attorney's fees.
[9] Section 509.101, F.S.
[10] See McCarthy, Regan, "Bill to Bend Hotel Age Requirement for Military Members," *WFSU* (Jan. 28, 2015). A copy of the article is available at: http://news.wfsu.org/post/bill-bend-hotel-age-requirements-military-members (last visited February 11, 2015).
[11] 5 U.S. Code § 2101 and 10 U.S. Code § 101(a)(4) define the U.S. Armed Forces as the Army, Navy, Air Force, Marine Corps, and Coast Guard.

- Pass a physical medical exam.

Each branch also has addition slightly different enlistment requirements.[12] A person must also be at least 17 years of age to be a member of the National Guard.[13]

Members of the armed services are issues a Common Access Card by the U.S. Department of Defense. The Common Access Card is the standard identification for active duty uniformed service personnel, selected reserve, U.S. Department of Defense civilian employees, eligible contractor personnel, and other eligible personnel.[14]

III. Effect of Proposed Changes:

This bill creates s. 509.095, F.S., to require that public lodging establishments waive any policy they may have which restricts accommodations to individuals older than a certain age when the person is an active duty member of the United States Armed Services, the United States Reserve Forces, the National Guard, and the Coast Guard. The policy must be waived and the person must not be denied an accommodation on the basis of age upon the presentation of a valid Common Access Card.

The bill prohibits public lodging establishment from duplicating Common Access Cards that are presented pursuant to s. 509.095, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[12] *See* http://www.military.com/join-armed-forces/join-the-military-basic-eligibility.html?comp=7000023458428&rank=1 (last visited February 9, 2015).
[13] *See* http://www.nationalguard.com/eligibility (last visited February 13, 2015).
[14] See http://www.cac.mil/common-access-card/ (last visited February 16, 2015).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Hotels and restaurants anticipates an indeterminate increase in complaints received and inspections required to investigate such complaints.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 509.095 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 18, 2015:
The committee substitute (CS) requires the presentation of a "common access card" instead of a "military identification card." The CS refers to active duty members of the United States Armed Services, the United States Reserve Forces, the National Guard, and the Coast Guard. The CS prohibits duplication of Common Access Cards that are presented pursuant to s. 509.095, F.S.

B. Amendments:

None.

377494

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 13 - 19
and insert:
individuals with a valid Common Access Card.—Upon the presentation of a valid Common Access Card by an individual who is currently on active duty as a member of the United States Armed Forces, the United States Reserve Forces, the National Guard, or the Coast Guard, and is seeking to obtain accommodations at a hotel, motel, or bed and breakfast inn, as

377494

defined in s. 509.242, such hotel, motel, or bed and breakfast inn shall waive any minimum age policy that it may have which restricts accommodations to individuals based on age. Duplication of Common Access Cards presented pursuant to this section is prohibited.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 5 - 6

and insert:

individuals who present a valid Common Access Card; prohibiting duplication of Common Access Cards; providing an effective date.

By Senator Brandes

22-00640-15 2015394__

A bill to be entitled

An act relating to public lodging establishments; creating s. 509.095, F.S.; requiring specified public lodging establishments to waive certain policies for individuals who present a valid military identification card; providing an effective date.

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

Section 1. Section 509.095, Florida Statutes, is created to read:

509.095 Accommodations at public lodging establishments for individuals with a valid military identification card.—Upon the presentation of a valid military identification card by an individual who seeks to obtain accommodations at a hotel, motel, or bed and breakfast inn, as defined in s. 509.242, such hotel, motel, or bed and breakfast inn shall waive any policy that it may have which restricts accommodations to individuals older than a certain age.

Section 2. This act shall take effect July 1, 2015.

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 30, 2015

I respectfully request that **Senate Bill #394**, relating to **Public Lodging Establishments**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

Feb. 18th 2015 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Topic Public Lodging Establishments - Military Id Bill Number 394 *(if applicable)*

Name Richard Turner Amendment Barcode _____ *(if applicable)*

Job Title Gen Counsel / V.P. Governmental Relations

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City *State* *Zip*

Speaking: [X] For [ ] Against [ ] Information

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [X] 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 (10/20/11)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 394
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE			2/18/2015 1 Amendment 377494					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
X		Bean						
X		Braynon						
X		Diaz de la Portilla						
VA		Flores						
X		Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
X		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
11	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	SB 168
INTRODUCER:	Senator Negron
SUBJECT:	Mobile Home Parks
DATE:	February 18, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.			CA	
3.			JU	

I. Summary:

SB 168 revises the definition of the term "mobile home park" or park" to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill would subject mobile home lots or spaces that are held under long term leases, i.e., 99-year leases, to the mobile home park requirements in ch. 723, F.S., which includes procedures and limitations on rent amount increases for mobile home lots or spaces.

The bill is intended to apply the amendment retroactively to the enactment of s. 723.003, F.S., on June 4, 1984. It provides that the amendment is remedial in nature and intended to clarify existing law. It is intended to abrogate a prior interpretation of the definition of the term "mobile home park" by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) in which the division concluded that a subdivision consisting of lots subject to 99-year leases could not be considered a "mobile home park" because the lots or spaces are offered for rent or lease under 99-year leases with an automatic renewal clause and that is the equivalent of an equitable interest and not a leasehold interest. The bill also provides that the amendment is not intended to affect assessments or liability for, or exemptions from, ad valorem taxation on a lot or space upon which a mobile home is placed.

The bill would take effect upon becoming law.

II. Present Situation:

Mobile Home Act

Chapter 723, F.S., is known as the "Florida Mobile Home Act" (act) and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department).

The Florida Mobile Home Act was enacted in 1984.[1] The act was created to address the unique relationship between a mobile home owner and a mobile home park owner. The act provides in part that:

> Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.[2]

The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[3]

Section 723.003(6), F.S., defines the term "mobile home park" or "park" to mean:

> a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Section 723.003(8), F.S., defines the term "mobile home subdivision" to mean:

> a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

The terms "mobile home park," "park," and "mobile home subdivision" have remained unchanged since the enactment of the Florida Mobile Home Act in 1984.[4]

Savanna Club Litigation Memorandum

The department issued a "Litigation Memo" dated September 18, 2013 regarding whether the Savanna Club community in Port St. Lucie, Florida, was a mobile home park as defined in s. 723.003(6), F.S. It also considered whether the community was a "mobile home subdivision" as defined by s. 723.003(8), F.S. The division concluded that the community was not a "mobile home park" or a "mobile home subdivision."[5]

---

[1] Chapter 84-80, L.O.F. Formerly ch. 720, F.S.
[2] Section 723.004(1), F.S.; *see also Mobile Home Relocation*, Interim Report No. 2007-106, Florida Senate Committee on Community Affairs, October 2006.
[3] Section 723.002(1), F.S.
[4] *See* ch. 84-80, L.O.F. The definitions in s. 723.003, were formerly in s. 720.103, F.S. (1984).
[5] *See* Litigation Memo re: Savanna Club, Case No. 2007065818, Sept. 18, 2013. (on file with the committee).

The Savanna Club is a residential mobile home subdivision consisting of approximately 2,560 mobile homes and a recreation complex. An unspecified number of the lots were sold in fee simple and the remainder were sold with 99-year leases that have an automatic renewal clause. All of the lots held in fee simple or through a 99-year lease are subject to a declaration of covenants and restrictions that requires membership in the homeowners' association. All members of the association, including members whose lots are held through a 99-year lease, have one vote in the association with no distinction in membership rights or obligations. The developer has transferred the deed for the common areas and recreational areas to the homeowners' association.

The 99-year leases provide the terms for rent increases. The adjusted monthly rental of the previous lease year is used as a base for the current lease year, plus the greater of a percentage increase based on the U.S. Consumer Price Index or three percent. When an original tenant transfers his or her interest in a lot subject to a 99-year lease, the new rent is based on the fair market value as determined by the landlord, i.e., the developer.

The division found that the subdivision did not meet the definition of "mobile home subdivision" in s. 723.003(8), F.S., because the developer had not retained an interest in any common areas in the subdivision and because the 99-year leaseholders were the equitable owners of the lots.

Leaseholders of 99-year leases are considered equitable owners and the leased property is not exempt from the payment of property taxes.[6] Leaseholders of leases of 98 or more years are also entitled to claim a homestead exemption from ad valorem property taxes.[7]

The division also found that Savanna Club could not be considered a "mobile home park" under s. 723.003(6), F.S., because the lots or spaces are not offered for rent or lease in the way that this provision contemplates. It noted that 99-year leases with an automatic renewal clause are the equivalent of an equitable interest and not a leasehold interest.

Prospectus or Offering Circular

The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner. The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to the homeowners and prospective homeowners in the mobile home park. The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.[8]

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the division for approval. Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner must deliver to the homeowner a prospectus that has been approved by the division.[9] The division maintains copies of each prospectus and all amendments to each

[6] *Ward v. Brown*, 919 So.2d 462 (Fla. 1st DCA 2005).
[7] *See* s. 196.041(1), F.S.
[8] Section 723.011(3), F.S.
[9] Section 723.011(1)(a), F.S.

prospectus that it has approved. The division must also provide copies of documents within 10 days of receipt of a written request.[10]

The park owner must furnish a copy of the prospectus with all the attached exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first. Upon delivery of a prospectus to a prospective lessee, the lot rental agreement is voidable by the lessee for a period of 15 days.[11]

If a prospectus is not provided to the prospective lessee before the execution of a lot agreement or prior to occupancy, the rental agreement is voidable by the lessee until 15 days after the lessee receives the prospectus.[12] If the homeowner cancels the rental agreement, he or she is entitled to a refund of any deposit together with relocation costs for the mobile home, or the market value thereof including any appurtenances thereto paid for by the mobile home owner, from the park owner.[13]

The prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in the specified circumstances.[14]

Written Notification in the Absence of a Prospectus

Section 723.013, F.S., provides that when a park owner does not give a prospectus prior to the execution of a rental agreement or prior to the purchaser's occupancy, the park owner must give written notification of specified information prior to the purchaser's occupancy, including zoning information, the name and address of the mobile home park owner or a person authorized to receive notices and demands on his or her behalf, and all fees and charges, assessments, or other financial obligations not included in the rental agreement and a copy of the rules and regulations in effect.

This provision only applies to mobile home parks containing at least 10 lots but no more than 25 lots. Section 723.011, F.S., requires mobile home park owners to provide a prospectus to all prospective lessees in mobile home parks containing 26 lots or more.

Mobile Home Park Rent Increases

Section 723.059(4), F.S., provides that the mobile home park owner has the right to increase rents "in an amount deemed appropriate by the mobile home park owner." The park owner must give mobile home lot tenants 90-day notice of a lot rental increase.[15]

However, the park owner must disclosed the increase to the purchaser prior to his or her occupancy and the increase must be imposed in a manner consistent with the initial offering

[10] Section 723.011(1)(d), F.S.
[11] Section 723.011(2), F.S.
[12] Section 723.014(1), F.S.
[13] Section 723.014(2), F.S.
[14] *See* rule 61B-31.001, F.A.C.
[15] Section 723.037(1), F.S.

circular or prospectus. The homeowners also have the right to have a meeting with the park owner at which the park owner must explain the factors that led to the increase.[16]

Unreasonable lot rental agreements and unreasonable rent increases are unenforceable.[17] A lot rental amount that exceeds market rent shall be considered unreasonable.[18] Market rent is defined as rent which would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners.[19]

III. Effect of Proposed Changes:

The bill amends s. 723.003(6), F.S., to revise the definition of the term "mobile home park" or park" to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill would subject mobile home lots or spaces that are held under 99-year leases to the requirement of ch. 723, F.S.

The bill amends s. 73.072, F.S., which relates to compensation for permanent improvements by mobile home owners after the eminent domain taking of real property, to incorporate the amendment to s. 723.003, F.S.

The bill applies retroactively to the enactment of s. 723.003, F.S., on June 4, 1984. It provides that the amendment is remedial in nature and intended to clarify existing law. It provides that the amendment is intended to abrogate the division's interpretation of law, in the litigation memorandum dated September 18, 2013. It also provides that the amendment is not intended to affect assessments or liability for, or exemptions from, ad valorem taxation on a lot or space upon which a mobile home is placed.

The effect of this bill is unclear in a circumstance in which mobile home lots are subject to a long standing the terms of a 99-year lease, i.e., as described in the division's litigation memo regarding the Savanna Club subdivision. Specifically, it is not clear whether the amendment to s. 723.003(6), F.S., would subject lots that are under preexisting, long-term lease agreement to rent increase provision in ch. 723, F.S., for any past or future rent increases. Particularly, when there is no division-approved prospectus.

The bill would take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[16] Section 723.037, F.S.
[17] Section 723.033(1), F.S.
[18] Section 723.033(5), F.S.
[19] Section 723.033(4), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill amends s. 723.003(6), F.S., to revise the definition of the term "mobile home park" or "park" to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill retroactively applies the requirements of ch. 723, F.S., to mobile home lots or spaces that are held under long-term lease, i.e., 99-year leases. To the extent the retroactive or prospective application of the requirements of ch. 723, F.S., conflict with the terms and conditions of affected long-term leases, including rent increase requirements, these provisions appear to implicate constitutional concerns relating to the impairment of contract.

The retroactive application of these provisions may violate the Contract Clause,[20] the prohibition against ex post facto laws,[21] and the Due Process clauses[22] of the U.S. Constitution. The common law also provides that the government, through rule or legislation, cannot adversely affect substantive rights once such rights have vested.[23] Generally, courts will refuse to apply a statute retroactively if it "impairs vested rights, creates new obligations, or imposes new penalties."[24]

The Contract Clause prohibits states from passing laws which impair contract rights. It only prevents substantial impairments of contracts.[25] The courts use a balancing test to determine whether a particular regulation violates the contract clause. The courts measure the severity of contractual impairment against the importance of the interest advanced by the regulation. Also, courts look at whether the regulation is a reasonable and narrowly tailored means of promoting the state's interest.[26] Generally, courts accord considerable deference to legislative determinations relating to the need for laws which impair private obligations.[27] However, courts scrutinize the impairment of public contracts in a stricter fashion. They exhibit less deference to findings of the Legislature, because the Legislature may stand to gain from the outcome.[28]

[20] Article I, s. 10, U.S. Constitution.
[21] Article I, s. 9, U.S. Constitution.
[22] Fifth and Fourteenth Amendments, U.S. Constitution.
[23] *Bitterman v. Bitterman*, 714 So.2d 356 (Fla. 1998).
[24] *Essex Insurance, Co. v. Integrated Drainage Solutions, Inc.*, 124 So.3d 947 at 951 (Fla. 2nd DCA 2013), *quoting State Farm Mut. Auto. Ins., Co. v. Laforet*, 658 So.2d 55 at 61 (Fla. 1995)
[25] *Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398 (1923).
[26] *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234 (1978).
[27] *East New York Savings Bank v. Hahn*, 326 U.S. 230 (1945).
[28] *United States Trust Co. v. New Jersey*, 431 U.S. 1 (1977). *See generally*, Leo Clark, *The Contract Clause: A Basis for Limited Judicial Review of State Economic Regulation*, 39 U. MIAMI L. REV. 183 (1985).

Although the retroactive application of condominium laws to preexisting lease agreements between condominium associations and third parties may be constitutionally applied,[29] it is not clear whether mobile home park laws may be retroactively applied to pre-existing, long-term lease agreements between a homeowner lessee and the developer lessor.

In *Pomponio v. Claridge of Pompano Condominium, Inc*.,[30] the court stated that some degree of flexibility has developed over the last century in interpreting the contract clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The Florida Supreme Court invalidated as an unconstitutional impairment of contract a statute that provided for the deposit of rent into a court registry during litigation involving obligations under a contract lease. In *Pomponio*, the court set forth several factors in balancing whether the state law has in fact operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear. The court stated that if there is minimal alteration of contractual obligations the inquiry can end at its first stage. Severe impairment can push the inquiry to a careful examination of the nature and purpose of the state legislation. The factors to be considered are:

- Whether the law was enacted to deal with a broad, generalized economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the contract was entered into; and
- Whether the effect on the contractual relationships is temporary or whether it is severe, permanent, immediate, and retroactive.[31]

In *United States Fidelity & Guaranty Co*,[32] the U.S. Supreme Court adopted the method used in *Pomponio.* The court stated that the method required a balancing of a person's interest not to have his contracts impaired with the state's interest in exercising its legitimate police power. The court outlined the main factors to be considered in applying this balancing test.

- The threshold inquiry is "whether the state law has, in fact, operated as a substantial impairment of a contractual relationship."[33] The severity of the impairment increases the level of scrutiny.
- In determining the extent of the impairment, the court considered whether the industry the complaining party entered has been regulated in the past. This is a consideration because if the party was already subject to regulation at the time the

[29] *Century Village, Inc. v. Wellington*, 361 So.2d 128 (Fla. 1978).
[30] *Pomponio v. Claridge of Pompano Condominium, Inc*., 378 So. 2d 774, 776 (Fla. 1979).
[31] *Pomponio*, 378 So. 2d at 779.
[32] *United States Fidelity & Guaranty Co. v. Department of Insurance*, 453 So. 2d 1355 (Fla. 1984).
[33] *United States Fidelity & Guaranty Co.*, 453 So. 2d at 1360 (quoting *Allied Structural Steel Co., v. Spannaus*, 438 U.S. 234, 244 (1978)).

contract was entered, then it is understood that it would be subject to further legislation upon the same topic.[34]

- If the state regulation constitutes a substantial impairment, the state needs a significant and legitimate public purpose behind the regulation.[4]
- Once the legitimate public purpose is identified, the next inquiry is whether the adjustment of the rights and responsibilities of the contracting parties are appropriate to the public purpose justifying the legislation.[35]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Homeowners with long-term lease on lots or spaces in a community with 10 or leased mobile home lots or spaces lots or spaces may be entitled to utilize the rent increase procedures in ch. 723, F.S., which limits lot increases to market rent. If the market rent is less than the percentage increase stated in the long-term lease agreement, the homeowner may incur a savings. However, if the market rate is greater than the percentage increase stated in the long-term lease agreement, the homeowner's rent cost may be greater.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 723.003 and 73.072.

This bill creates an undesignated section of the Florida Statutes.

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[34] *Id.* (citing *Allied Structural Steel Co.*, 438 U.S. at 242, n. 13).
[4] *United States Fidelity & Guaranty Co.*, 453 So. 2d at 1360 (citing *U.S. Trust Co. of New York v. New Jersey*, 431 U.S. 1, 22 (1977)).
[35] *Id*.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Negron

32-00229A-15 2015168__

A bill to be entitled

An act relating to mobile home parks; amending s. 723.003, F.S.; revising the definition of the term "mobile home park" to clarify that it includes certain lots or spaces regardless of the rental or lease term's length or person liable for ad valorem taxes; reenacting and amending s. 73.072, F.S., to incorporate the amendment made to s. 723.003, F.S., in a reference thereto; providing that the act is remedial and intended to clarify existing law and to abrogate an interpretation of such law by the Department of Business and Professional Regulation; providing for retroactive application; providing that the act does not affect specified ad valorem taxation issues; providing an effective date.

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

Section 1. Subsection (6) of section 723.003, Florida Statutes, is amended to read:

723.003 Definitions.—As used in this chapter, the following words and terms have the following meanings unless clearly indicated otherwise:

(6) The term "mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes, regardless of the length of the rental or lease term or the person liable for the payment of ad valorem taxes on the lot or space, and in which the primary use of the park is residential.

32-00229A-15 2015168__

Section 2. For the purpose of incorporating the amendment made by this act to section 723.003, Florida Statutes, in a reference thereto, subsection (1) of section 73.072, Florida Statutes, is reenacted and amended to read:

73.072 Mobile home parks; compensation for permanent improvements by mobile home owners.—

(1) If ~~When~~ all or a portion of a mobile home park as defined in s. 723.003~~(6)~~ is appropriated under this chapter, the condemning authority shall separately determine the compensation for any permanent improvements made to each site. This compensation shall be awarded to the mobile home owner leasing the site if:

(a) The effect of the taking includes a requirement that the mobile home owner remove or relocate his or her mobile home from the site;

(b) The mobile home owner currently leasing the site has paid for the permanent improvements to the site; and

(c) The value of the permanent improvements on the site exceeds $1,000 as of the date of taking.

Section 3. The amendment made by this act to s. 723.003, Florida Statutes, is remedial in nature and is intended to clarify existing law and to abrogate the interpretation of law set forth by the Department of Business and Professional Regulation in a litigation memo dated September 18, 2013, which misclassified certain long-term leases of mobile home lots and spaces as equitable ownership interests for purposes of the statutory definition of "mobile home park." The amendment applies retroactively to the enactment of s. 723.003, Florida Statutes, on June 4, 1984, and is not intended to affect

assessments or liability for, or exemptions from, ad valorem taxation on a lot or space upon which a mobile home is placed.

Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

January 20, 2015

The Honorable Rob Bradley, Chair
Committee on Regulated Industries
330 Knot Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 168

Dear Chairman Bradley:

I would like to request Senate Bill 168 relating to Mobile Home Parks be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 32

JN/hd
c: Patrick L. "Booter" Imhof, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: *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)

2-18-15
Meeting Date

168
Bill Number (if applicable)

Topic mobile home parks

Amendment Barcode (if applicable)

Name Lori Killinger

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida manufactured housing 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.

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) SB 168

Meeting Date

Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

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

Representing SECF

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)

2/18/15
Meeting Date

SB 168
Bill Number (if applicable)

Topic ~~SB 168~~ Senior Resident housing issue

Amendment Barcode (if applicable)

Name Sari Caouette

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Phone 772-323-0483

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City *State* *Zip*

Email mgapomp

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Savanna Club residents

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 168

Name FRANCINE GARTLAND

Job Title RETIRED

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City *State* *Zip*

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Speaking: [X] For [ ] Against [ ] Information

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

Representing SAVANNA CLUB

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)

THE FLORIDA SENATE

APPEARANCE RECORD

Feb 18, 2015
Meeting Date

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

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Mobile home parks

Name Nancy Stewart

Job Title Legislative Counsel

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City *State* *Zip*

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Email nancyblackstewart@earthlink.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Federation of Manufactured Home Owners of Florida (FMO) Inc

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)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 168
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
VA		Bean						
X		Braynon						
X		Diaz de la Portilla						
X		Flores						
X		Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
X		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
11	0	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 226
INTRODUCER:	Regulated Industries Committee and Senator Latvala
SUBJECT:	Racing Animals
DATE:	February 18, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Fav/CS**
2.			AG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 226 modifies requirements regarding prohibited medication or drugging of racing animals (horses and greyhounds). Violations are no longer contingent upon a person administering or causing a prohibited substance to be administered; the mere presence of a prohibited substance in a racing animal is evidence of the violation. The fine for violations may be up to $10,000 or the race winnings (purse or sweepstakes amount), whichever is greater. Prosecutions must be started within 90 days of the race date.

Samples are collected from racing animals at racetracks by the Division of Pari-mutuel Wagering (division) of the Department of Business and Professional Regulation. One portion of a sample is analyzed by the division's laboratory to determine whether any substance prohibited in racing animals is present. If the analyzed sample contains prohibited substances, the owner or trainer has the right to request an analysis on the remaining portion by an independent laboratory. As to samples from racing greyhounds, if the second analysis does not confirm the first, or is of insufficient quantity to do so, prosecution may still be pursued against the owner or trainer despite the lack of confirmation. For samples from racehorses, if the second analysis does not confirm the first, or is of insufficient quantity to do so, no prosecution may be pursued against the owner or trainer, and any suspended licensee must be reinstated. Current law is maintained for samples from racing greyhounds.

CS/SB 226 requires the division to adopt rules regarding the use and allowed levels of medications, drugs, and naturally occurring substances in racing animals, as listed by the

Association of Racing Commissioners International (ARCI). The bill requires the division to adopt rules that include a classification system for drugs and incorporates ARCI's Penalty Guidelines for drug violations and eliminates a limitation on the testing methodology that may be used to screen samples for prohibited substances. The rules also must include the conditions for the use of furosemide, a diuretic (Lasix or Salix).

An outside quality assurance program must annually assess the ability of all laboratories approved by the division to analyze samples for the presence of medications, drugs, and prohibited substances. The findings must be reported to the division and the Department of Agriculture and Consumer Services.

II. Present Situation:

The racing of animals (horses and greyhounds) using any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent is generally prohibited, and those medications that are permitted under certain conditions are specified by law.[1] However, the Division of Pari-mutuel Wagering (division) may adopt rules specifying acceptable levels of naturally occurring substances in untreated animals which may not be exceeded in race-day specimens.[2]

The implementation of uniform rules, policies, and testing standards for the medication, treatment, and testing of racehorses to strengthen the integrity of the racing industry is a goal of the Jockey Club,[3] which is dedicated to the improvement of thoroughbred breeding and racing. The Club's associated Racing Testing and Medication Consortium (RMTC)[4] began pursuit of the adoption and implementation of uniform standards, rules, and penalties in all horse racing jurisdictions in 2013.[5] The program has been characterized by RMTC's vice chairman as "the most sweeping reform in medication regulation and testing in a generation."[6] Implementation in Florida, as a premier thoroughbred racing state, continues to be a goal of the Jockey Club.

Other drugs and substances are permitted under limited conditions, such as furosemide to treat exercise-induced bleeding, and vitamins and minerals that do not exceed acceptable levels.[7] Classification of a substance in a sample as permissible or impermissible may be dependent upon whether:

- The substance is administered within or outside the allowed time frame before a race is scheduled to begin;
- The racing animal is approved for administration of the substance, or is qualified by gender to receive it;
- The level of the substance exceeds acceptable levels set by administrative rule; and

[1] Section 550.2415, F.S.
[2] Section 550.2415(1)(b), F.S. The division may also set acceptable levels of environmental contaminants and trace levels of prohibited substances that are not reportable as a violation.
[3] *See* http://www.jockeyclub.com/ and http://www.jockeyclub.com/Default.asp?section=About&area=0 (last visited Feb. 17, 2015).
[4] *See* http://www.rmtcnet.com/content_landing_helpingthecause.asp (last visited Feb. 17, 2015).
[5] *See* http://www.bloodhorse.com/horse-racing/articles/84070/foreman-pace-of-drug-reform-unprecedented
[6] *Id.*
[7] Section 550.2415(7), F.S.

- The method of administration of the substance is prohibited.[8]

Each racetrack permitholder must maintain a detention enclosure for securing urine, blood or other samples from racing animals.[9] The trainer of record for each animal is responsible for the condition of the animals he or she enters to race,[10] and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.[11]

Samples of blood, urine, saliva, or any other bodily fluid may be collected from a race animal immediately before and immediately after it has raced.[12] If racing officials find, through reasonably reliable evidence, that substances other than permissible substances have been administered, or that otherwise permissible substances have been administered during prohibited periods before the time of a race, evidence of illegal or impermissible substances may be confiscated, and the racing animal may be prohibited from racing in the race (scratched).[13]

The winner of every race is sent to the detention enclosure for examination by an authorized representative of the division and the taking of samples to monitor and detect both permissible and impermissible substances.[14] Any other animals that participated in the race may be designated for examination and testing by the stewards, judges, racetrack veterinarian, or a division representative.[15]

All samples are collected by staff of the Office of Operations of the division and sent to the University of Florida College of Medicine Racing Laboratory for analysis.[16] Blood specimens must be collected from racing animals by veterinarians employed by the division or any licensed veterinarian hired or retained by the division, and the collection must be witnessed by the animal's trainer, owner, or designee.[17]

The 83rd Annual Report of the division reflects that during Fiscal Year 2013-2014, the laboratory processed 79,600 samples and performed 344,289 analyses, as follows:[18]

[8] *See* Rule 61D-6.008(1)-(9), F.A.C., respecting permitted medications for horses.
[9] Rule 61D-6.002(2), F.A.C.
[10] Rule 61D-6.002(1), F.A.C.
[11] Rule 61D-6.003, F.A.C. Prescription drugs must be prescribed by a licensed veterinarian who has a current veterinarian-patient relationship, and all substances must be properly labelled.
[12] Section 550.2415(1)a), F.S.
[13] *See* s. 550.2415(7) and (8), F.S., and Rule 61D-6.005, F.A.C.
[14] Rule 61D-6.005, F.A.C.
[15] *Id.* The division has proposed rulemaking that would delete the requirement that the winner of every race and selected participants be immediately examined by a representative of the division and for the taking of samples. *See infra* note 39.
[16] See *83rd Annual Report, Fiscal Year 2013-2014*,(83rd Annual Report) at page 3, http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf (last visited Feb. 17, 2015). The division annually contracts with the racing laboratory for these services.
[17] Rule 61D-6.005, F.A.C.
[18] *See* 83rd Annual Report, *supra* note 16, at page 37. This is approximately 10,000 fewer samples processed and 8,500 fewer analyses performed than in 2012-2013. According to the Division, due to racing schedules late in the fiscal year, some samples were not analyzed by fiscal year-end, resulting in a higher number of analyses than samples received.

Sample Type	Horse Urine/Blood	Greyhound Urine	Investigative
Samples Received	15,816	63,757	27
Samples Analyzed	16,066	43,631	27
Number of Analyses	76,316	267,885	88
Positive Results	208	42	n/a

The volume of many greyhound urine samples that were taken at racetracks (20,044 or 31.4% of the total) was insufficient to permit valid testing of those samples.[19] Of the 79,573 non-investigative samples that were collected at racetracks, 59,567 samples were analyzed, and there were 250 positive results (i.e. a finding of impermissible substances).[20]

If a prohibited substance is found in a race-day specimen, it is evidence that the substance was administered to and in the racing animal while racing.[21] Test results are confidential and exempt public records for 10 days after the testing of all samples collected on a particular day have been completed and the positive results have been reported to the director of the division, or until action against a person licensed by the division has been commenced by the service of an administrative complaint within two years after the race date.[22]

Once the division notifies the owners or trainer of the positive result as required, the owner may request that each urine or blood sample be split into a primary sample and a secondary (split) sample; the splitting procedure must occur in the laboratory using procedures approved by the division by rule.[23] At the request of either the affected owner or trainer, the division must send the secondary sample to an independent laboratory for analysis.

If the positive result found by the state laboratory is not confirmed by the analysis made by the independent laboratory, no further administrative or disciplinary action may be pursued by the division.[24] If the positive result is confirmed, or if the volume of the secondary sample is insufficient to do so, then administrative action may proceed, but only within the period of 2 years from the race date.[25] There must be a good faith attempt by the division to obtain a sufficient quantity of fluid specimens to allow both a primary test to be made by the state laboratory and a secondary test to be made by an independent laboratory.[26]

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.[27]

[19] *Id.*
[20] *Id*.
[21] Section 550.2415(1)(c), F.S.
[22] See ss. 550.2415(1)(a) and (4)., F.S.
[23] Section 550.2415(5)(a), F.S.
[24] Section 550.2415(5)(b), F.S.
[25] Section 550.2415(5)(c), F.S.
[26] *Id*.
[27] *See* 83rd Annual Report, *supra* note 16, at page 3.

III. Effect of Proposed Changes:

The bill modifies language in s. 550.2415, F.S., respecting the racing of animals under prohibited conditions. A violation exists if a racing animal (a horse or greyhound) is impermissibly medicated by a person, or if an animal has a prohibited substance in a blood or urine sample. The requirement that a person "administer or cause to be administered" the prohibited substance[28] has been eliminated. A distinction is made between the impermissible use of a medication and the use of a prohibited substance ("illegal doping"). Any "illegal doping" of a racing animal impacts the licensee(s) responsible for the animal, whether or not the actual perpetrator is known. The condition of the racing animal, through analysis of bodily fluids that reflect the presence of prohibited substances, permits the suspension of the licensee(s) responsible for the condition of the animal.

The fine for violations may be up to $10,000 or the race winnings (purse or sweepstakes amount), whichever is greater. The current provisions that allow the division to revoke or suspend the violator's license, require the full or partial return of the purse sweepstakes and race trophy, or impose any combination of the fine and other penalties, are not changed.

CS/SB 266 partially addresses the division's concern with shortening the existing deadline to initiate prosecutions of violations from 2 years from the date of the race to only 60 days, and provides that initiation of prosecutions must be within 90 days after the violation.

The bill provides that the division may solicit input from the Department of Agriculture and Consumer Services when adopting rules that specify normal concentrations of naturally occurring substances and acceptable levels of other environmental contaminants and substances.

Samples from racing animals are collected at racetracks. One portion of a sample is analyzed by the division's laboratory to determine whether any substance prohibited in racing animals is present. The University of Florida College of Veterinary Medicine Equine Racing Laboratory is currently under annual contract for these services.[29] If the analyzed sample contains prohibited substances, the owner or trainer has the right to request an analysis on the remaining portion by an independent laboratory.

The bill provides that the division must notify not only the owner or trainer of the outcome of all drug tests, but all the stewards (the racetrack officials responsible for enforcement of racing regulations) and the appropriate horsemen's association (which represents the majority of the racehorse owners and trainers at a track). The bill does not address the timing of such notification to the stewards and horsemen's association.

Section 550.2415(1)(a), F.S., currently states that test results and the identities of the tested animals and their trainers and owners of records are confidential and exempt from the public records access, inspection, and copying requirements set forth in s. 119.07(1), F.S., of the Florida

[28] These substances are currently described as "any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-making agent." *See* s. 550.2415(1)(a), F.S.

[29] *See* Veterinary Diagnostic Laboratories, UF Large Animal Hospital, College of Veterinary Medicine at http://largeanimal.vethospitals.ufl.edu/services/veterinary-diagnostic-laboratories/ (last visited Feb. 17, 2015).

Public Records Act and from s. 24(a) of Article I of the Florida Constitution. The records are not currently subject to public access, inspection, and copying for a period of 10 days after:

- Testing of all the samples collected on a particular day has been completed; and
- Any positive test results from the samples have been reported to the director of the division; or
- The service of an administrative complaint against a licensee.[30]

If the division's laboratory finds that the sample contains impermissible medications, prohibited substances, or a level of a naturally occurring substance exceeding normal concentrations (i.e., a "positive drug test"), the owner or trainer has the right to request another analysis be made on the retained portion (split sample) by an independent laboratory. If the independent laboratory's analysis confirms the finding made by the division laboratory, administrative proceedings may be pursued.

The bill does not change existing law as to the testing of samples from racing greyhounds. In 2013-2014, the volume of urine collected in greyhound urine samples was insufficient for testing by the independent laboratory in 31.4% of the samples received.[31]If the quantity of the split sample provided to the independent laboratory is insufficient to confirm the positive drug test result made by the division's laboratory, prosecution may still be pursued against the owner or trainer on the basis of the initial test result.

As to the testing of samples from racehorses, the bill provides that if the quantity of the split sample provided to the independent laboratory is insufficient to confirm the positive drug test result made by the division's laboratory, no prosecution may be pursued against the owner or trainer, and any suspended license must be immediately reinstated.

The division's laboratory and all laboratories approved by the division to analyze samples collected from racing animals must annually participate in an outside quality assurance program[32] to assess their ability to detect and quantify medications, drugs, and naturally occurring substances that may be administered to racing animals. The quality assurance program administrator must report its findings to the division and the Department of Agriculture and Consumer Services.

The revised bill restores existing law for inspections of pari-mutuel facilities[33] to ensure the humane treating of racing animals and compliance with all rules and law.

The revised bill mandates the adoption by the division of rules that establish the use and allowed levels of medications, drugs, and naturally occurring substances that are in the Controlled

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[30] *See* s. 550.2415(4), F.S.,
[31] *See* 83rd Annual Report, *supra* note 16, at page 37.
[32] For information about one such proficiency program designed for veterinary laboratories and hospitals, *see* http://www.vetlabassoc.com/quality-assurance-program/ (last visited Feb. 17, 2015).
[33] Section 550.002(23), F.S., defines pari-mutuel facilities as those racetracks, frontons, or other facility used for pari-mutuel wagering; s. 550.2415(6)(e), F.S., permits inspections of those areas at pari-mutuel facilities where racing animals are raced, trained, housed, or maintained, including areas where food, medications, or supplies are kept.

Therapeutic Medication Schedule, Version 2.1, revised April 17, 2014,[34] by the Association of Racing Commissioners International, Inc. (ARCI),[35] which is a not-for-profit trade association with no regulatory authority. However, its members individually possess regulatory authority within their jurisdictions, and many have the authority to determine whether to adopt ARCI recommendations on policies and rules.[36]

The Association of Racing Commissioners International, Inc. has adopted Model Rules for Racing[37] for the use of the pari-mutuel industry. As stated in the introduction, ARCI views the Model Rules as a document to be amended as the need arises, with input to the ARCI Model Rules Committee from all interested parties, with meetings open to members of the pari-mutuel industry and the public. The Model Rules are maintained on the website of the University of Arizona, Race Track Industry Program's as a service to ARCI and the pari-mutuel racing industry.[38] The Model Rules reference the CTM Schedule as appropriate, but with no indication of a Version identifier.

The CTM Schedule includes maximum allowed concentrations and doses for 23 medications and three non-steroidal anti-inflammatory drugs (NSAIDs), with guidelines for the termination of use of the medication or substance prior to racing, to avoid a positive drug test. The adoption of uniform medication rules using the CTM Schedule is an attempt to provide owners and trainers with uniformity of regulations across jurisdictions.[39]

The bill also requires the division to adopt rules:

- Designating the appropriate biological specimens to monitor the administration of medications, drugs, and naturally occurring substances;
- Determining the testing methods for screening specimens to confirm the presence of medication, drugs and naturally occurring substances; and
- Providing for a classification system for drugs and substances, with a penalty schedule for violations.

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[34] *See* http://arcicom.businesscatalyst.com/assets/arci-controlled-therapeutic-medication-schedule---version-2.1.pdf (last accessed Feb. 17, 2015). Version 1 of the CTM Schedule was adopted April 2, 2013; certain amendments were incorporated into Version 2.0 on April 9, 2014, and another amendment on April 14, 2014 was incorporated into Version 2.1. The final sheet of the CTM Schedule describes all of the amendments by date. It appears the reference to Version 2.01 on the April 17, 2014 amendment description conflicts with the title of the document which is stated as "Version 2.1."

[35] According to ARCI, it is a not-for-profit trade association of governmental regulators of horse and greyhound racing in the United States, Canada, Mexico, Jamaica, and Trinidad-Tobago, who have the legal responsibility to ensure the integrity of racing and pari-mutuel wagering in their jurisdictions. *See* http://arcicom.businesscatalyst.com/about-rci.html (last visited Feb. 17, 2015).

[36] *Id.*

[37] *See* https://ua-rtip.org/industry_service/download_model_rules (last visited Feb. 17, 2015).

[38] *Id.* at page 2.

[39] For commentary on the significance to horse racing of the adoption of uniform standards and rules, see Gary West, *Churchill[Downs] Could Spark Change (December 17, 2014, updated December 18, 2014)* http://espn.go.com/espn/print?id=12043495&type=story (last visited Feb. 19, 2015). There is also a Racing Medication and Testing Consortium (RMTC) which conducts strategic planning on research needs and is reorganizing Scientific Advisory Committee to adapt and respond to new drugs, practices and substances which threaten the integrity of racing. The executive committee of RMTC recently affirmed the importance of maintaining an independent and apolitical entity for equine drug and therapeutic medication research. *See* http://www.rmtcnet.com/content_pressreleases.asp?id=&s=&article=1942 (last visited Feb. 17, 2015).

The revised bill requires that the penalty schedule for violations must incorporate the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014 (Uniform Classification Guidelines), by ARCI.[40] The Uniform Classification Guidelines are "intended to assist stewards, hearing officers and racing commissioners in evaluating the seriousness of alleged violations of medication and prohibited substance rules . . . ."[41]

Furosemide (also known as Lasix or Salix) is a diuretic, and the bill requires the division to adopt rules specifying the conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage (nose bleeds in particular). The bill specifies that furosemide is the only medication that may be administered within the 24 hours before the "officially scheduled post time of a race," but not within the four hour period prior to that post time.

The bill deletes the specific requirement that the division adopt rules of the use and administration of prednisolone sodium succinate,[42] phenylbutazone,[43] and synthetic corticosteroids[44]. Instead the bill provides for the reliance on ARCI's schedules and guidelines. The bill also deletes the division's authority to adopt rules for the use of furosemide, phenylbutazone, or prednisolone sodium succinate; those substances are addressed in ARCI's schedules and rules.

The bill deletes the requirement that the division use only thin layer chromatography (TLC) for the testing of urine and blood samples from race horses.

The bill deletes the reference to ARCI's uniform classification system for class IV and V medications adopted on February 14, 1995.

Finally, the bill deletes the specific requirement that the testing for phenylbutazone be six full 15 milliliter blood tubes for each horse tested.

The division's concern with the impact of the deletion of existing s. 550.2415(15), F.S., has been addressed. The revised bill retains existing law respecting the division's authority to adopt medication levels for racing greyhounds, as may be recommended by the University of Florida College of Veterinary Medicine, [45] in renumbered s. 550.2415(13).

The division also notes that since the Controlled Therapeutic Medication Schedule adopted by the Association of Racing Commissioners International, Inc. (ARCI) appears to be limited to

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[40] *See* http://arcicom.businesscatalyst.com/assets/uniformclassificationguidelines.pdf (last accessed Feb. 17, 2015)
[41] *Id.* at page ii. The final sheet of the document describes all of the amendments since December 2010, when Version 1.00 was adopted. Fourteen amendments to Version 7.00 were made in December 2014 when Version 8.00 was adopted.
[42] The amount and use of this drug is regulated for horses, dogs, and cats by 21 C.F.R. § 522.184 for treatment of inflammatory, allergic and other stress conditions.
[43] Phenylbutazone for horses is a non-steroidal anti-inflammatory drug (NSAID) used to treat pain and inflammation associated with fractures, arthritis, and painful injuries to the limbs and joints. *See* http://www.1800petmeds.com/Phenylbutazone-prod10141.html (last visited Feb. 17, 2015).
[44] Synthetic corticosteroids are important therapeutic drugs that are widely used in human and veterinary medicine for a number of indications including treatment of inflammation and pain associated with joint disease and arthritis. *See* RMTC Position Statement on Corticosteroids, Racing Medication & Testing Consortium, available at http://www.rmtcnet.com (last visited Feb. 17, 2015).
[45] *Id*. at page 7.

horses, the deletion of existing s. 550.2415(15), F.S., as to the medication of racehorses, removes its authority to adopt rules on medication levels that have not yet been addressed by ARCI.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The changes in sampling of urine and blood specimens from racing animals and the annual assessment of independent testing laboratories will have an indeterminate impact on horse and greyhound tracks, and the owners and trainers of racing animals.

C. Government Sector Impact:

The following fiscal impacts estimated by the division have been addressed and are no longer applicable to the committee substitute.

The division estimates that one additional FTE (employee) and three freezers will be needed, and that requiring its staff to split samples rather than doing so at the state laboratory will increase shipping and supply costs.[46] The total fiscal impact is estimated by the division to be approximately $177,000, with approximately $147,600 in recurring costs. Based on actual costs incurred by the Racing Laboratory at the University of Florida, the division projects an increase in annual shipping cost of $35,000, and the doubling of sample containers, tags, tubes, etc., is expected to cost approximately $55,000 annually, for an additional amount of $90,000 in expenses.[47] The purpose of

[46] *See 2015 Department of Business and Professional Regulation Legislative Bill Analysis*, February 4, 2015 (on file with Senate Committee on Regulated Industries) at page 6 and available to Legislative staff at http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=5395 (last visited Feb. 17, 2015).
[47] *Id*.

splitting the sample in the field at the racetrack rather than in the controlled racing laboratory environment with performance by trained technicians is unclear to the division.[48] The division also notes that splitting the sample at the state laboratory ensures anonymity of the sample source because it is only identified by a coded sample number, and that the existing process also addresses chain of custody issues required for successful prosecutions of violations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The timing of the notification of drug test results to stewards and the appropriate horsemen's association should be specified, in conformity with the requirements of the Public Records Act and the Florida Constitution.

CS/SB 226 requires that the results of all drug tests (negative and positive) be reported to owners, trainers, stewards, and the appropriate horsemen's association. Consideration should be given to limiting such notifications to only positive drug test results.

The term "race animal" appears once in s. 550.2415(3)(b), F.S., rather than the term "racing animal" that is generally used elsewhere in Chapter 550, F.S. The term "race animal" also appears twice in s. 550.235, F.S. Consideration should be given to conforming the references.

VIII. Statutes Affected:

The bill substantially amends section 550.2415 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 18, 2015:
CS/SB 226 changes the deadline for commencement of a prosecution for illegal medication or drugging of racing animals, from 2 years to 90 days.

CS/SB 226 restores current law regarding the collection and testing of biological specimens from racing animals for the presence of prohibited substances, but changes the consequences related to a positive drug test finding. If a positive drug test finding by the laboratory of the Division of Pari-Mutuel Wagering (division) of the Department of Business and Professional Regulation is confirmed in further testing an independent laboratory, the division may initiate administrative proceedings related to the violation. For samples from racing greyhounds, even if confirmation of the positive result by an independent laboratory is not possible due to the sample size being insufficient, the division may nonetheless initiate administrative proceedings for a violation. For samples from racehorses, however, a positive drug test result

[48] *Id*.

must be confirmed by further testing by an independent laboratory. If the sample size is insufficient to confirm the positive result, no administrative proceedings for a violation may be initiated by the division.

CS/SB 226 specifies that the division must adopt rules establishing the conditions of use of medications, drugs, and naturally occurring substances as identified in Version 2.1 of the Controlled Therapeutic Medication Schedule adopted by the Association of Racing Commissioners International, Inc. (ARCI) on April 17, 2014. The revised bill further requires that the rules incorporate the classification system and penalty schedule for violations in ARCI's Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014.

CS/SB 226 grants the division discretion to solicit input from the Department of Agriculture and Consumer Services in adopting the required administrative rules, which must occur by January 1, 2016.

CS/SB 226 removes a requirement that the division coordinate with the Department of Agriculture on the humane treatment of animals.

CS/SB 226 retains existing law respecting the division's authority to adopt medication levels for racing greyhounds developed in consultation with the University of Florida College of Veterinary Medicine.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2015	.	
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	.	
	.	

The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 89 - 135

and insert:

of this section must be commenced within 90 days ~~2 years~~ after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section.

(a) ~~Upon finding a positive drug test result,~~ The division

660444

~~department~~ shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test ~~the~~ results~~. The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the division. Custody of both samples must remain with the division~~. If a drug test result is positive ~~However~~, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is ~~in the event of a~~ positive ~~test sample~~.

(b) If the division ~~state~~ laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. ~~The division may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.~~

(c) If the independent laboratory confirms the division ~~state~~ laboratory's positive result, ~~or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result,~~ the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a

660444

primary test and a secondary test to be made.

(d) For the testing of racing greyhounds, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120.

(e) For the testing of racehorses, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.

(f) The division shall require its laboratory and the

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete lines 12 - 13

and insert:

must commence; requiring the division to notify the

508866

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 144 - 182
and insert:
(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the division shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule, Version 2.1, revised

508866

April 17, 2014, adopted by the Association of Racing Commissioners International, Inc. (ARCI). Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by ARCI as controlled therapeutic medications.

(b) The division rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.

(c) The division rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by ARCI. The division shall adopt laboratory screening limits approved by ARCI for drugs and medications that are not included as controlled therapeutic medications, the presence of which in a sample may result in a violation of this section.

(d) The division rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(e) The division may solicit input from the Department of

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

And the directory clause is amended as follows:

Delete line 35

and insert:

(5), and subsections (7)

508866

40
41 ================ T I T L E A M E N D M E N T ================
42 And the title is amended as follows:
43 Delete lines 22 - 24
44 and insert:
45 revising the conditions of use for certain

928268

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment

Delete lines 283 - 292

and insert:

(13) ~~(15)~~ The division may implement by rule medication levels for racing greyhounds recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide

928268

written notification to the division that it has completed research or review on a particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.

By Senator Latvala

20-00257B-15 2015226__

A bill to be entitled

An act relating to racing animals; amending s. 550.2415, F.S.; revising the prohibition on the use of certain medications or substances on racing animals; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to solicit input from the Department of Agriculture and Consumer Services; revising the penalties for violating laws relating to the racing of animals; decreasing the timeframe in which prosecutions for violations regarding racing animals must commence; revising the procedures for testing racing animals; requiring the division to notify the owners or trainers, stewards, and the appropriate horsemen's association of all drug test results; prohibiting the division from taking action against owners or trainers under certain circumstances; requiring the division to require its laboratory and specified independent laboratories to annually participate in a quality assurance program; requiring the administrator of the program to submit a report; authorizing the division to coordinate inspections with the Department of Agriculture and Consumer Services; revising the conditions of use for certain medications; expanding violations to include prohibited substances that break down during a race found in specimens collected after a race; revising the rulemaking authority of the division; providing an effective date.

20-00257B-15 2015226__

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

Section 1. Paragraphs (a) and (b) of subsection (1), paragraphs (a) and (b) of subsection (3), subsections (4) and (5), paragraph (e) of subsection (6), and subsections (7) through (16) of section 550.2415, Florida Statutes, are amended to read:

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(1)(a) The racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present ~~with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent~~ is prohibited. It is a violation of this section for a person to impermissibly medicate an animal or for an animal to have a prohibited substance present resulting ~~administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result~~ in a positive test for such medications or substances ~~such substance~~ based on samples taken from the animal ~~immediately~~ prior to or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the division or administrative

action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may solicit input from the Department of Agriculture and Consumer Services and adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(3)(a) Upon the finding of a violation of this section, the division may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding the purse or sweepstakes earned by the animal in the race at issue or $10,000, whichever is greater ~~$5,000~~; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section does not prohibit ~~in no way prohibits~~ a prosecution for criminal acts committed.

(b) The division, notwithstanding the provisions of chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if the division laboratory reports the presence of a prohibited ~~an impermissible~~ substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(4) A prosecution pursuant to this section for a violation of this section must be commenced within 60 days ~~2 years~~ after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section. The division shall split each urine and blood sample using the split-sample procedure into a primary sample and a secondary (split) sample upon collection. The division shall transfer custody of the primary sample to the division laboratory, with custody of the split sample remaining with the division except as provided in this subsection.

(a) ~~Upon finding a positive drug test result,~~ The division ~~department~~ shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test ~~the~~ results~~. The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the division. Custody of both samples must remain with the division~~. If a drug test result is positive ~~However~~, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is ~~in the event of a~~ positive ~~test sample~~.

(b) If the division ~~state~~ laboratory's findings are not

confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. ~~The division may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.~~

(c) If the independent laboratory confirms the division ~~state~~ laboratory's positive result, ~~or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result,~~ the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made. If there is an insufficient quantity of the split sample for confirmation of the division laboratory's positive result, the division may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.

(d) The division shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racing animals. The administrator of the quality assurance program shall report its results and findings to the division and the Department of Agriculture and Consumer Services.

(6)

(e) The division may inspect or coordinate inspections with

the Department of Agriculture and Consumer Services of any area at a pari-mutuel facility where racing animals are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racing animals and compliance with this chapter and the rules of the division.

(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the division shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule adopted on or before March 1, 2015, by the Association of Racing Commissioners International, Inc. (ARCI). Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by ARCI as controlled therapeutic medications.

(b) The division rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.

(c) The division rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the Uniform Classification Guidelines for Foreign Substances, as adopted on or before March 1, 2015, by ARCI. The rules must specify that a drug that is not

listed in the Controlled Therapeutic Medication Schedule which is present in a sample taken from the animal immediately after the race is a prohibited substance. The presence of a prohibited substance in a sample may result in summary license suspension pursuant to paragraph (3)(b).

(d) The division rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(e) The division shall solicit input from the Department of Agriculture and Consumer Services in adopting the rules required under this subsection. Such rules must be adopted before January 1, 2016 ~~Under no circumstances may any medication be administered closer than 24 hours prior to the officially scheduled post time of a race except as provided for in this section~~.

~~(a) The division shall adopt rules setting conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.~~

~~(b) The division shall adopt rules setting conditions for the use of prednisolone sodium succinate, but under no circumstances may furosemide or prednisolone sodium succinate be administered closer than 4 hours prior to the officially scheduled post time for the race.~~

~~(c) The division shall adopt rules setting conditions for the use of phenylbutazone and synthetic corticosteroids; in no case, except as provided in paragraph (b), shall these substances be given closer than 24 hours prior to the officially scheduled post time of a race. Oral corticosteroids are prohibited except when prescribed by a licensed veterinarian and reported to the division on forms prescribed by the division.~~

(f)~~(d)~~ This section does not ~~Nothing in this section shall be interpreted to~~ prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race-day specimen.

~~(c) The division may, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimens by which the administration of permitted medication is monitored.~~

(8)~~(a)~~ Furosemide is the only medication that may be administered within 24 hours before the officially scheduled post time of a race, but it may not be administered within 4 hours before the officially scheduled post time of a race ~~Under no circumstances may any medication be administered within 24 hours before the officially scheduled post time of the race except as provided in this section~~.

~~(b) As an exception to this section, if the division first determines that the use of furosemide, phenylbutazone, or prednisolone sodium succinate in horses is in the best interest of racing, the division may adopt rules allowing such use. Any rules allowing the use of furosemide, phenylbutazone, or prednisolone sodium succinate in racing must set the conditions for such use. Under no circumstances may a rule be adopted which allows the administration of furosemide or prednisolone sodium succinate within 4 hours before the officially scheduled post time for the race. Under no circumstances may a rule be adopted which allows the administration of phenylbutazone or any other synthetic corticosteroid within 24 hours before the officially scheduled post time for the race. Any administration of synthetic corticosteroids is limited to parenteral routes. Oral~~

~~administration of synthetic corticosteroids is expressly prohibited. If this paragraph is unconstitutional, it is severable from the remainder of this section.~~

~~(c) The division shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.~~

(9)(a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division may take possession of the animal upon death for postmortem examination. The division may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the division laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.

(10) The presence of a prohibited substance in an animal, found by the division laboratory in a bodily fluid specimen collected <u>after the race or</u> during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of postmortem examinations, testing, and disposal must be borne by the division.

(12) The division shall adopt rules to implement this section. ~~The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.~~

~~(13) Except as specifically modified by statute or by rules of the division, the Uniform Classification Guidelines for Foreign Substances, revised February 14, 1995, as promulgated by the Association of Racing Commissioners International, Inc., is hereby adopted by reference as the uniform classification system for class IV and V medications.~~

~~(14) The division shall utilize only the thin layer chromatography (TLC) screening process to test for the presence of class IV and V medications in samples taken from racehorses except when thresholds of a class IV or class V medication have been established and are enforced by rule. Once a sample has been identified as suspicious for a class IV or class V medication by the TLC screening process, the sample will be sent for confirmation by and through additional testing methods. All other medications not classified by rule as a class IV or class V agent shall be subject to all forms of testing available to the division.~~

~~(15) The division may implement by rule medication levels recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the division that it has completed research or review on a particular drug pursuant to the agreement and when the College~~

~~of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.~~

~~(16) The testing medium for phenylbutazone in horses shall be serum, and the division may collect up to six full 15-milliliter blood tubes for each horse being sampled.~~

Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

January 14, 2015

The Honorable Senator Rob Bradley, Chair
Senate Committee on Regulated Industries
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request consideration of Senate Bill 226 regarding Racing Animals. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible.

This bill will prohibit the use of certain medications or substances on racing animals prior to a race.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala

Jack Latvala
State Senator
District 20

Cc: Patrick Imhof, Staff Director; Lynn Koon, Administrative Assistant

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: *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)

2/18/15
Meeting Date

SB 226
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic MEDICATION

Name STEVE FISCH, DVM

Job Title PRESIDENT FLORIDA QUARTER HORSE RACING ASSOCIATION

Address 9085 UNICORN HILL DRIVE
Street
TALLAHASSEE, FL 32301
City *State* *Zip*

Phone 850-514-9652

Email SFISCHDVM@EMBARQMAIL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AMERICAN QUARTER HORSE ASSOC. & FLORIDA QUARTER HORSE RACING ASSOC

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-18-15
Meeting Date

SB 226
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Horse Medication

Name Herb Scheene (Sheehan)

Job Title

Address 1455 Cane Creek Rd
Street

Phone

Quincy FL 32351
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FHBPA

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

226
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Marc Dunbar

Job Title _____

Address P.O. Box 351
Street

Tallahassee FL 32302
City *State* *Zip*

Phone 850-933-8502

Email mdunbar@joneswalker.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Stronach Group

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

226
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Equine Medication

Name Lonny Powell (Powell)

Job Title CEO, FTBOA

Address
Street

Ocala, FL 34474
City State Zip

Phone 352 207 4274

Email

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Thoroughbred Breeders Assn

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

Lobbyist registered with Legislature: [X] 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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

SB226
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Racing Animals (Equine Health)

Name Grace Lovett

Job Title Director Legislative Affairs

Address PL 10 The Capitol
Street

Phone 617-7700

Tallahassee FL 32399
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Agriculture and Consumer Services

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

226
Bill Number (if applicable)

Topic Racing Animals

Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Lobbyist

Address 119 E. Park Ave
Street

Tallahassee FL, 32301
City *State* *Zip*

Phone 766.5795

Email corinne@mixonandassociates.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Veterinary Medical Association

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

Lobbyist registered with Legislature: [X] 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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/15
Meeting Date

226
Bill Number (if applicable)

Topic Medication of Racehorses

Amendment Barcode (if applicable)

Name Dr. Dionne Benson

Job Title Exec. Director, Racing Medication Testing Consortium

Address 821 Corporate Drive
Street

Phone 859-224-2845

Lexington KY 40503
City *State* *Zip*

Email dbenson@rmtc.net.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing RMTC – Here for technical questions

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)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 226
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 18, 2015
TIME: 2:00 —5:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE			2/18/2015 1 Amendment 660444 Latvala		2/18/2015 2 Amendment 508866 Latvala		2/18/2015 3 Amendment 928268 Latvala	
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
X		Bean						
X		Braynon						
X		Diaz de la Portilla						
X		Flores						
X		Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
X		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
11	0	**TOTALS**	RCS	-	RCS	-	RCS	-
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

Issues Impacting Negotiation and Federal Approval of Indian Gaming Compact with the Seminole Tribe of Florida

Staff Presentation

Wednesday, February 18, 2015

The Florida Senate
Committee on
Regulated Industries

Senator Bradley, Chair
Senator Margolis, Vice Chair

Federal Indian Gaming Regulatory Act ("IGRA") Sets Requirements

- ✓ Class II gaming is exclusively within the jurisdiction of the Department of Interior and the tribe.
- ✓ Class III gaming may only be conducted pursuant to a valid compact between a tribe and a state and approved by Interior.
- ✓ A tribe cannot be taxed, but may share revenues where a state has made meaningful concessions that bestow a substantial economic benefit.

Subjects of Compact Negotiation under IGRA

A tribal–state compact may include provisions relating to:

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

Subjects of Compact Negotiation under IGRA

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(v) remedies for breach of contract;

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

Important Dates in Seminole Tribe Gaming Compact

April 7, 2010: Gaming Compact executed by Governor and Seminole Tribe of Florida

April 28, 2010: Gaming Compact is ratified by Legislature (Chapter 2010-29, Laws of Florida)

June 24, 2010: Gaming Compact is approved by U.S. Secretary of the Interior as required by the Indian Gaming Regulatory Act of 1988 ("IGRA")

Important Dates (continued)

July 6, 2010: Gaming Compact becomes effective upon publication in the Federal Register

August 1, 2010: Gaming Compact term (20 years) begins

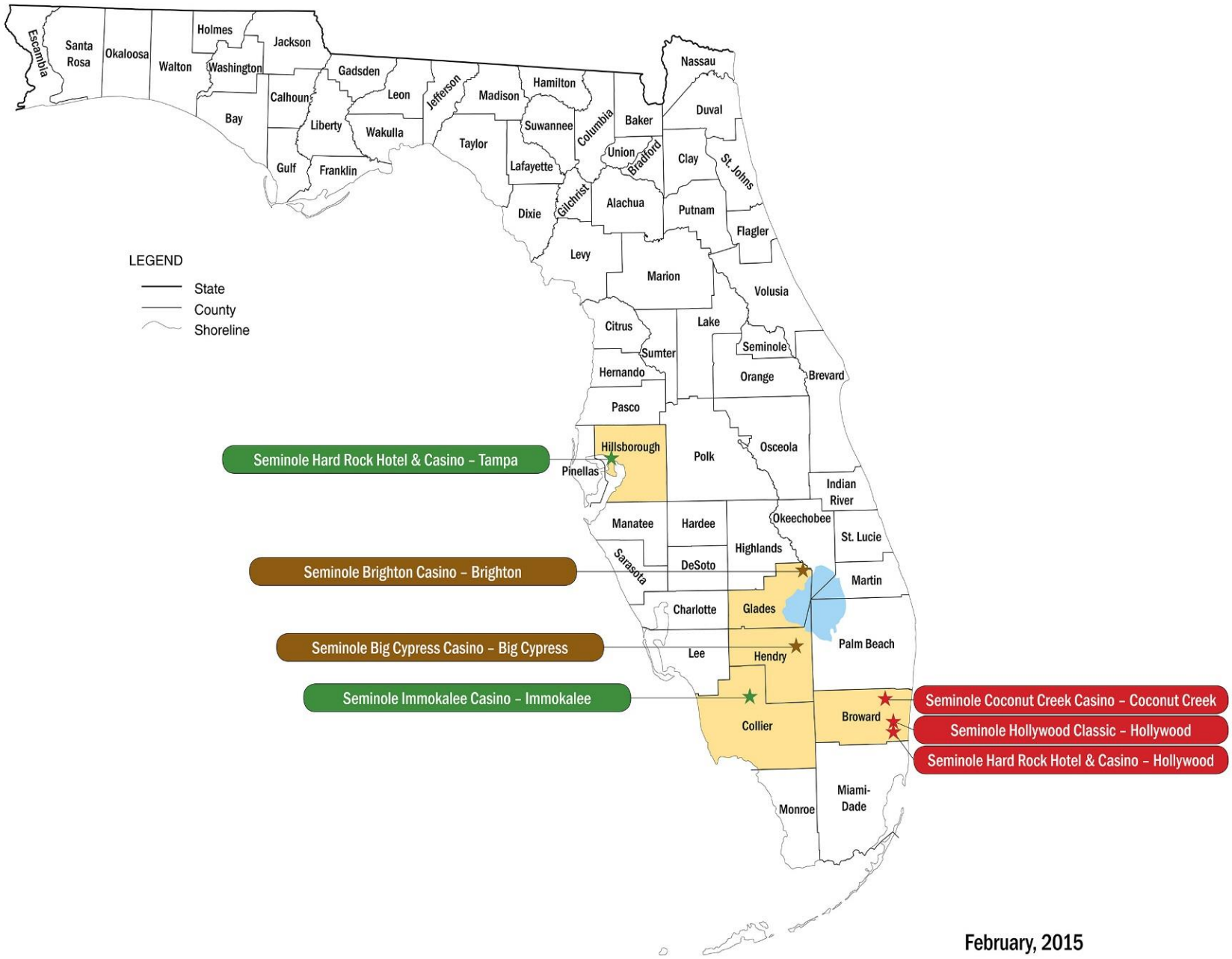
July 31, 2015: The Tribe's authorization to conduct banked card games terminates unless renewed

July 31, 2030: Gaming Compact ends unless renewed

Authorized: Seven Seminole Casinos on Tribe's Indian Lands

1. Hard Rock Hotel & Casino – Hollywood (Broward County)
2. Casino – Hollywood Classic (Broward County)
3. Casino – Coconut Creek (Broward County)
4. Hard Rock Hotel & Casino – Tampa (Hillsborough County)
5. Casino – Immokalee (Collier County)
6. Casino – Brighton (Glades County) *no banked card games*
7. Casino – Big Cypress (Hendry County) *no banked card games*

SEMINOLE TRIBE GAMING FACILITIES IN FLORIDA



Authorized Revenue Sharing: Meaningful Concessions

"Meaningful concessions" with economic benefit to the Tribe are required for federal approval of revenue sharing percentages.

These authorizations granted in 2010 have value:

A. The limiting of competition to currently permitted locations (***restricting competition***);

B. The offering of slots outside of Broward and Miami-Dade Counties ***(partial exclusivity)***; and

C. The offering of banked card games ***(total exclusivity)***.

Current Revenue Sharing: Meaningful Concession of Exclusivity

The revenue sharing percentages in the Compact were approved because the Tribe was granted:

A. **Partial exclusivity** as to slot machine gaming, because the Tribe is authorized to offer slots at all its casinos, and the State agreed to limit all other slots gaming in the State to 8 existing pari-mutuel facilities in Broward and Miami-Dade Counties.

B. **Total exclusivity** as to banked card games until July 31, 2015, because only the Tribe is authorized to offer those games (at 5 of 7 casinos) in the State.

Current Revenue Sharing Percentages

12 % of Net Win* up to $2 billion

15 % of Net Win between $2 billion and $3 billion

17.5% of Net Win between $3 billion and $3.5 billion

22.5% of Net Win between $4 billion and $4.5 billion

25 % of Net Win over $ 4.5 billion

Net Win: $1.977 billion in 2012-13

$2.088 billion in 2013-14

*Net Win: the amount players bet, less the amount paid to winners

Revenue Sharing Impacts

Under the terms of the Compact, if the exclusive right to offer banked card games is not extended beyond July 31,2015, then:

1. Future revenue sharing from banked card games will cease.
2. Future revenue sharing from the 3 tribal casinos in Broward County will be excluded.

The Tribe will have 90 days to wind down and remove the card games from their facilities.

Revenue Sharing Impacts (continued)

The Compact, including revenue sharing from the non-Broward tribal facilities, will remain in effect if the authorization of banked card games is not extended beyond July 31, 2015.

Revenue sharing will cease if the Legislature authorizes Class III games or other casino-style games outside of Broward and Miami-Dade Counties.

Example: authorizing slot machines at pari-mutuel facilities in a county other than Broward and Miami-Dade Counties.

Example: authorizing a resort destination in a county other than Broward and Miami-Dade Counties.

Revenue Sharing Impacts (continued)

If the Compact is not amended, the revenue sharing provisions unique to Broward and Miami-Dade Counties will no longer be applicable after July 31, 2015:

1. New Class III or other casino-style gaming authorized at the 8 existing state-licensed pari-mutuel facilities in Broward and Miami-Dade Counties.

Example: Presently, if the 8 existing state-licensed pari-mutuel facilities receive banked card games, the Tribe's revenue sharing percentage is reduced by 50% of any decline in Net Win from its 3 Broward casinos.

Revenue Sharing Impacts (continued)

2. New gaming offered anywhere within Broward or Miami-Dade Counties other than at the 8 existing state-licensed pari-mutuel facilities:

Example: Presently, if new Class III or other casino-style gaming is offered at new facilities or through relocation of the 8 existing state-licensed pari-mutuel facilities, the Tribe's revenue sharing will exclude all of the Net Win from its 3 Broward casinos.

Revenue Sharing: More or Less $?

Simply stated, to justify greater revenue sharing, the State may have to make additional meaningful concessions.

Conversely, as the revenue sharing provisions demonstrate, policy changes that impact the Tribe negatively, such as impairing its exclusivity, results in sacrificing portions of potential revenue sharing.

Notable Compact Provisions (continued)

- The Tribe must address compulsive gambling and support such initiatives in part by the annual payment of $1,750,000 ($250,000 for each of its 7 casinos). (Page 38)
- Amendments must be approved by the Secretary of the Interior. (Page 50)

Notable Compact Provisions (continued)

- Any changes of the following Compact provisions must first be ratified by the Legislature:

A. Partial exclusivity for slot machine gaming;
B. Total exclusivity for banked card games;
C. Amount of revenue sharing payments; or
D. Suspension/reduction of any payments.

THANK YOU FOR YOUR ATTENTION.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

February 16th, 2015

The Honorable Rob Bradley
The Florida Senate
208 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bradley:

Please accept this letter as a formal request to excuse myself from the Committee on Regulated Industries, Wednesday, February 18th. Due to the very recent birth of my first child I am unable to attend this week's committee meetings.

Please let me know if I can provide you with any further information related to this matter. Thank you in advance for your understanding.

Sincerely,

Joseph Abruzzo

Cc: Patrick L. Imhof, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: *www.flsenate.gov*

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Regulated Industries Committee **Judge:**

Started: 2/18/2015 2:05:22 PM
Ends: 2/18/2015 3:34:36 PM Length: 01:29:15

2:05:36 PM Tab 1 SB 186 - Senator Latvala
2:06:59 PM Tab 2 - Senator Brandes SB 394
2:07:43 PM Amendment Barcode 377494
2:08:12 PM Favorable voice vote
2:08:34 PM Richard Turner waived his time
2:09:00 PM CS/SB 394 Favoraable
2:09:39 PM Tab 1 - SB 186 Senator Latvala
2:10:01 PM PCS 123552
2:12:37 PM Kevin Bowler Daytona Beverages
2:14:39 PM Senator Stargel
2:15:41 PM PCS amendment favorable voice vote
2:16:06 PM Matthew Sokolowski Great Bay Distributors
2:17:17 PM Jay Martin JJ Taylor Distributing
2:19:32 PM John Giotis Florida Council for Safe Communities
2:24:45 PM Senator Latvala closing remarks
2:26:33 PM CS/SB 186 favorable
2:27:17 PM Tab 3 Senator Negron SB 168
2:32:39 PM Lori Killinger Florida Manufactured Housing
2:37:46 PM Sari Caouette Svanna Club resident
2:38:33 PM Roseann Giegler Savanna Club
2:41:45 PM Sari Caouette Savanna Club
2:45:26 PM Francine Gartland Savanna Club
2:47:10 PM Nancy Stewart Federation of Manufactured Home Owners of Florida
2:49:40 PM SB 168 Favorable
2:50:47 PM Tab 4 Senator Latvala SB 226
2:52:49 PM Amendment Barcode 660444
2:53:32 PM Amendment favorable
2:54:00 PM Amendment Barcode 508866
2:54:38 PM Barcode amendment 660444 (started the amendment process over)
2:55:01 PM Amendment favorable
2:55:17 PM Amendment barcode 508866
2:55:26 PM Amendment favorable
2:55:38 PM Amendment barcode 928268
2:55:47 PM Amendment favorable
2:59:49 PM CS/SB 226 Favorable
3:01:37 PM Tab 5 Presentation on the Indian Gaming Compact - George Levesque
3:34:17 PM Senator Margolis moves we rise