

By the Committee on Regulated Services and Representatives  
Villalobos and Saunders

1                                   A bill to be entitled  
2           An act relating to the Beverage Law; amending  
3           s. 561.24, F.S.; including manufacturers of  
4           wine within a group of manufacturers who may  
5           not be licensed as distributors or registered  
6           exporters; providing an exception; amending s.  
7           561.501, F.S.; providing for a surcharge on  
8           cider; creating s. 561.5101, F.S.; requiring  
9           all alcoholic beverages brought into this state  
10          to come to rest at a wholesaler's licensed  
11          premises prior to sale; providing exceptions;  
12          providing penalties; amending s. 561.54, F.S.;  
13          providing for injunctive relief; providing for  
14          confiscation and destruction of certain  
15          alcoholic beverages; providing for treble  
16          damages; providing for costs and attorney fees;  
17          creating s. 561.545, F.S.; providing  
18          legislative intent; prohibiting the direct  
19          shipment of alcoholic beverages to any person  
20          in the state other than a licensed manufacturer  
21          or wholesaler, registered exporter, or state  
22          bonded warehouse; providing penalties;  
23          providing an exception for sacramental  
24          alcoholic beverages; amending s. 561.68, F.S.,  
25          relating to the licensure of salesmen of  
26          spirituous or vinous beverages; providing an  
27          exception; providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Subsections (1), (2), (3), (4), and (5) of  
2 section 561.24, Florida Statutes, are amended to read:

3           561.24 Licensing manufacturers as distributors or  
4 registered exporters prohibited; procedure for issuance and  
5 renewal of distributors' licenses and exporters'  
6 registrations.--

7           (1) A manufacturer, rectifier, or distiller that  
8 manufactures, rectifies, or distills spirituous liquors or  
9 wine may not be granted a license as a distributor and may not  
10 register as an exporter.

11           (2) A manufacturer, rectifier, or distiller that  
12 manufactures, rectifies, or distills spirituous liquors or  
13 wine may not be granted a renewal of a license or registration  
14 previously held as a distributor or exporter.

15           (3) If the applicant for a distributor's license or  
16 exporter's registration, or renewal thereof, is an individual  
17 or copartnership, such individual or copartnership is within  
18 the provisions of subsection (1) or subsection (2), as the  
19 case may be, if the individual or any member of the  
20 copartnership is interested or connected, directly or  
21 indirectly, with any corporation which is engaged directly or  
22 indirectly or through any subsidiary or affiliate corporation,  
23 including any stock ownership as set forth in subsection (4),  
24 in manufacturing, rectifying, or distilling spirituous liquors  
25 ~~<U>~~or wine. If any individual or any member of such  
26 copartnership within 6 months next preceding the making of an  
27 application hereunder has been interested or connected as  
28 provided by this subsection, such individual or such member of  
29 the copartnership shall be prima facie presumed to be so  
30 interested or connected with such corporation at the time of  
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1 the making of the application, and such prima facie  
2 presumption shall continue until overcome by the applicant.  
3 (4) If the applicant for a distributor's license or  
4 exporter's registration, or for the renewal thereof, is a  
5 corporation, such corporation is within the provisions of  
6 subsections (1) and (2), as the case may be, if such  
7 corporation is affiliated with, directly or indirectly, any  
8 other corporation which is engaged in manufacturing,  
9 rectifying, or distilling spirituous liquors or wine or if  
10 such applicant corporation is controlled by, or the majority  
11 of stock therein is owned by, another corporation, which  
12 latter corporation is engaged, directly or indirectly, in  
13 manufacturing, rectifying, or distilling spirituous liquors or  
14 wine.  
15 (5) Notwithstanding any of the provisions of the  
16 foregoing subsections, any corporation which holds a license  
17 as a distributor on June 3, 1947, shall be entitled to a  
18 renewal thereof, provided such corporation complies with all  
19 of the provisions of the Beverage Law of Florida, as amended,  
20 and of this section and establishes by satisfactory evidence  
21 to the division ~~board of county commissioners of the county~~  
22 ~~wherein the original license was issued~~ that, during the  
23 6-month period next preceding its application for such  
24 renewal, of the total volume of its sales of spirituous  
25 liquors, in either dollars or quantity, not more than 40  
26 percent of such spirituous liquors sold by it, in either  
27 dollars or quantity, were manufactured, rectified, or  
28 distilled by any corporation with which the applicant is  
29 affiliated, directly or indirectly, including any corporation  
30 which owns or controls in any way any stock in the applicant  
31 corporation or any corporation which is a subsidiary or

1 affiliate of the corporation so owning stock in the applicant  
2 corporation. Any manufacturer of wine holding a license as a  
3 distributor on April 1, 1997, shall be entitled to a renewal  
4 of such license notwithstanding the provisions of subsections  
5 (1)-(5).

6 Section 2. Subsection (1) of section 561.501, Florida  
7 Statutes, is amended to read:

8 561.501 Surcharge on sale of alcoholic beverages for  
9 consumption on the premises; penalty.--

10 (1) Notwithstanding s. 561.50 or any other provision  
11 of the Beverage Law, a surcharge of 10 cents is imposed upon  
12 each ounce of liquor and each 4 ounces of wine, a surcharge of  
13 6 cents is imposed on each 12 ounces of cider, and a surcharge  
14 of 4 cents is imposed on each 12 ounces of beer sold at retail  
15 for consumption on premises licensed by the division as an  
16 alcoholic beverage vendor.

17 Section 3. Section 561.5101, Florida Statutes, is  
18 created to read:

19 561.5101 Come-to-rest requirement applicable to all  
20 alcoholic beverages; providing exceptions; providing  
21 penalties.--

22 (1) For purposes of inspection and tax revenue  
23 control, all alcoholic beverages brought into this state from  
24 another state or country must come to rest at the licensed  
25 premises of an alcoholic beverage wholesaler in this state  
26 before being sold to a vendor by the wholesaler. The  
27 prohibition contained in this subsection shall not apply to  
28 the shipment of those brands of distilled spirits or vinous or  
29 malt beverages commonly known as private labels.

30 (2) Any person, in another state or country in the  
31 business of selling alcoholic beverages, who knowingly and

1 intentionally ships alcoholic beverages into this state in a  
2 manner inconsistent with the requirements of subsection (1),  
3 whether to a vendor or to an ultimate consumer, commits a  
4 felony of the third degree, punishable as provided in s.  
5 775.082, s. 775.083 or s. 775.084.

6 Section 4. Section 561.54, Florida Statutes, is  
7 amended to read:

8 561.54 Certain deliveries of beverages prohibited.--

9 (1) It is unlawful for common or permit carriers,  
10 operators of privately owned cars, trucks, buses, or other  
11 conveyances or out-of-state manufacturers or suppliers to make  
12 delivery from without the state of any alcoholic beverage to  
13 any person, association of persons, or corporation within the  
14 state, except to qualified manufacturers, distributors, and  
15 exporters of such beverages so delivered and to qualified  
16 bonded warehouses in this state.

17 (2) Any licensee aggrieved by a violation of this  
18 section may bring an action in any court of competent  
19 jurisdiction to recover for the state all moneys obtained by  
20 common or permit carriers, operators of privately owned cars,  
21 trucks, buses, or other conveyances or obtained by  
22 out-of-state manufacturers or suppliers as a result of the  
23 delivery of alcoholic beverages in violation of this section  
24 and may obtain a declaratory judgment that an act or practice  
25 violates this section and enjoin any person who is violating  
26 or has violated this section. In addition to such relief, the  
27 court may order the confiscation and destruction of any  
28 alcoholic beverages delivered in violation of this section.  
29 In assessing damages, the court shall enter judgment against a  
30 defendant for three times the amount of the delivery charges  
31 proved or the fair market value of merchandise unlawfully

1 brought into the state. Payment or satisfaction of any  
2 judgment under this section, other than for attorney's fees  
3 and costs, shall be made in its entirety to the state. In any  
4 successful action under this section, the court shall award  
5 the plaintiff costs and reasonable attorney's fees.

6 Section 5. Section 561.545, Florida Statutes, is  
7 created to read:

8 561.545 Certain shipments of beverages prohibited;  
9 providing penalties; providing an exception for sacramental  
10 beverages.--The Legislature finds, determines, and declares  
11 that the direct shipment of alcoholic beverages by persons in  
12 the business of selling alcoholic beverages to residents of  
13 this state in violation of the Beverage Law poses a serious  
14 threat to the public health, safety, and welfare, to state  
15 revenue collections, and to the economy of the state. The  
16 Legislature further finds, determines, and declares that the  
17 present penalties for illegal direct shipment of alcoholic  
18 beverages to residents of this state are not adequate to  
19 ensure compliance with the Beverage Law and that the measures  
20 provided for in this section are fully consistent with the  
21 powers conferred upon the State of Florida by the Twenty-first  
22 Amendment to the United States Constitution.

23 (1) Any person in the business of selling alcoholic  
24 beverages who knowingly and intentionally ships, or causes to  
25 be shipped, any alcoholic beverage directly to any person in  
26 this state who does not hold a valid manufacturer's or  
27 wholesaler's license or exporter's registration issued by the  
28 Division of Alcoholic Beverages and Tobacco or who is not a  
29 state bonded warehouse is in violation of this section.

30 (2) Any common or permit carrier, operator of  
31 privately owned car, truck, bus, or other conveyance who

1 knowingly and intentionally transports any alcoholic beverage  
2 directly to any person in this state who does not hold a valid  
3 manufacturer's or wholesaler's license or exporter's  
4 registration or who is not a state bonded warehouse is in  
5 violation of this section.

6 (3) Any person found by the division to be in  
7 violation of subsection (1) or subsection (2) shall be issued  
8 a cease and desist order by certified mail. Any person who,  
9 after receiving a cease and desist order, is found by the  
10 division to be in violation of subsection (1) or subsection  
11 (2) for a second or subsequent occurrence, within a 2-year  
12 period after the first violation, commits a felony of the  
13 third degree, punishable as provided in s. 775.082, s. 775.083  
14 or s. 775.084.

15 (4) This section shall not apply to the direct  
16 shipment of sacramental alcoholic beverages to bona fide  
17 religious organizations as authorized by the division.

18 Section 6. Paragraph (a) of subsection (1) of section  
19 561.68, Florida Statutes, is amended to read:

20 561.68 Licensure; distributor's salesmen; providing  
21 exceptions.--

22 (1)(a) Before any person may solicit or sell to  
23 vendors or become employed as a salesman of spirituous or  
24 vinous beverages for a licensed Florida distributor in  
25 accordance with the provisions of this section, such person  
26 shall file with the district supervisor of the district of the  
27 Division of Alcoholic Beverage and Tobacco in which the  
28 distributor's premises is located a sworn application for a  
29 license on forms provided by the division. Prior to any  
30 application being approved, the division shall require the  
31 applicant to file a fee of \$50 and file a set of fingerprints

1 on regular United States Department of Justice forms. The  
2 licensure requirement provided in this paragraph shall not  
3 apply to the solicitation or sale of cider.

4 Section 7. This act shall take effect upon becoming a  
5 law.

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