

By the Committees on Governmental Rules & Regulations,
Regulated Services and Representatives Villalobos and Saunders

1 A bill to be entitled
2 An act relating to the Beverage Law; amending
3 s. 561.14, F.S.; allowing vendor-to-vendor
4 sales; establishing limits; requiring
5 maintenance of certain records; amending s.
6 561.24, F.S.; including manufacturers of wine
7 within a group of manufacturers who may not be
8 licensed as distributors or registered
9 exporters; providing exceptions; creating s.
10 561.5101, F.S.; requiring all alcoholic
11 beverages brought into this state to come to
12 rest at a wholesaler's licensed premises prior
13 to sale; providing exceptions; providing
14 penalties; amending s. 561.54, F.S.; providing
15 for injunctive relief; providing for
16 confiscation and destruction of certain
17 alcoholic beverages; providing for treble
18 damages; providing for costs and attorney fees;
19 creating s. 561.545, F.S.; providing
20 legislative intent; prohibiting the direct
21 shipment of alcoholic beverages to any person
22 in the state other than a licensed manufacturer
23 or wholesaler, registered exporter, or state
24 bonded warehouse; providing penalties;
25 providing an exception for sacramental
26 alcoholic beverages; amending s. 561.68, F.S.,
27 relating to the licensure of salesmen of
28 spirituous or vinous beverages; providing an
29 exception; providing an effective date.
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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (3) of section 561.14, Florida
2 Statutes, is amended to read:

3 561.14 License and registration
4 classification.--Licenses and registrations referred to in the
5 Beverage Law shall be classified as follows:

6 (3)(a) Vendors licensed to sell alcoholic beverages at
7 retail only. No vendor shall purchase or acquire in any manner
8 for the purpose of resale any alcoholic beverages from any
9 person not licensed as a vendor, manufacturer, bottler, or
10 distributor under the Beverage Law. Purchases of alcoholic
11 beverages by vendors from vendors shall be strictly limited to
12 purchases between members of a pool buying group for which the
13 initial purchase of the alcoholic beverages was ordered by a
14 pool buying agent as a single transaction. No vendor shall be
15 a member of more than one cooperative or pool buying group at
16 any time. No vendor shall import, or engage in the
17 importation of, any alcoholic beverages from places beyond the
18 limits of the state.

19 (b) Notwithstanding the provisions of paragraph (a), a
20 vendor may purchase wine or spirits from a vendor licensed to
21 sell alcoholic beverages for off-premises consumption in a
22 cumulative amount not to exceed \$1,000 annually. Records of
23 vendor-to-vendor sales must be maintained by both parties to
24 the sale for a period of 3 years. Failure to maintain accurate
25 documentation concerning all vendor-to-vendor sales will
26 result in administrative sanctions against the violator.

27 Section 2. Subsections (1), (2), (3), (4), and (5) of
28 section 561.24, Florida Statutes, are amended to read:

29 561.24 Licensing manufacturers as distributors or
30 registered exporters prohibited; procedure for issuance and
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1 renewal of distributors' licenses and exporters'
2 registrations.--

3 (1) A manufacturer, rectifier, or distiller that
4 manufactures, rectifies, or distills spirituous liquors or
5 wine may not be granted a license as a distributor and may not
6 register as an exporter.

7 (2) A manufacturer, rectifier, or distiller that
8 manufactures, rectifies, or distills spirituous liquors or
9 wine may not be granted a renewal of a license or registration
10 previously held as a distributor or exporter.

11 (3) If the applicant for a distributor's license or
12 exporter's registration, or renewal thereof, is an individual
13 or copartnership, such individual or copartnership is within
14 the provisions of subsection (1) or subsection (2), as the
15 case may be, if the individual or any member of the
16 copartnership is interested or connected, directly or
17 indirectly, with any corporation which is engaged directly or
18 indirectly or through any subsidiary or affiliate corporation,
19 including any stock ownership as set forth in subsection (4),
20 in manufacturing, rectifying, or distilling spirituous liquors
21 ~~or~~ wine. If any individual or any member of such
22 copartnership within 6 months next preceding the making of an
23 application hereunder has been interested or connected as
24 provided by this subsection, such individual or such member of
25 the copartnership shall be prima facie presumed to be so
26 interested or connected with such corporation at the time of
27 the making of the application, and such prima facie
28 presumption shall continue until overcome by the applicant.

29 (4) If the applicant for a distributor's license or
30 exporter's registration, or for the renewal thereof, is a
31 corporation, such corporation is within the provisions of

1 subsections (1) and (2), as the case may be, if such
2 corporation is affiliated with, directly or indirectly, any
3 other corporation which is engaged in manufacturing,
4 rectifying, or distilling spirituous liquors or wine or if
5 such applicant corporation is controlled by, or the majority
6 of stock therein is owned by, another corporation, which
7 latter corporation is engaged, directly or indirectly, in
8 manufacturing, rectifying, or distilling spirituous liquors or
9 wine.

10 (5) Notwithstanding any of the provisions of the
11 foregoing subsections, any corporation which holds a license
12 as a distributor on June 3, 1947, shall be entitled to a
13 renewal thereof, provided such corporation complies with all
14 of the provisions of the Beverage Law of Florida, as amended,
15 and of this section and establishes by satisfactory evidence
16 to the division ~~board of county commissioners of the county~~
17 ~~wherein the original license was issued~~ that, during the
18 6-month period next preceding its application for such
19 renewal, of the total volume of its sales of spirituous
20 liquors, in either dollars or quantity, not more than 40
21 percent of such spirituous liquors sold by it, in either
22 dollars or quantity, were manufactured, rectified, or
23 distilled by any corporation with which the applicant is
24 affiliated, directly or indirectly, including any corporation
25 which owns or controls in any way any stock in the applicant
26 corporation or any corporation which is a subsidiary or
27 affiliate of the corporation so owning stock in the applicant
28 corporation. Any manufacturer of wine holding a license as a
29 distributor on April 1, 1997, shall be entitled to a renewal
30 of such license notwithstanding the provisions of subsections
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1 (1)-(5). This section shall not apply to any winery qualifying
2 as a certified Florida Farm Winery under s. 599.004.

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

5 561.5101 Come-to-rest requirement applicable to all
6 alcoholic beverages; providing exceptions; providing
7 penalties.--

8 (1) For purposes of inspection and tax revenue
9 control, all alcoholic beverages brought into this state from
10 another state or country must come to rest at the licensed
11 premises of an alcoholic beverage wholesaler in this state
12 before being sold to a vendor by the wholesaler. The
13 prohibition contained in this subsection shall not apply to
14 the shipment of those brands of distilled spirits or vinous or
15 malt beverages commonly known as private labels.

16 (2) Any person, in another state or country in the
17 business of selling alcoholic beverages, who knowingly and
18 intentionally ships alcoholic beverages into this state in a
19 manner inconsistent with the requirements of subsection (1),
20 whether to a vendor or to an ultimate consumer, commits a
21 felony of the third degree, punishable as provided in s.
22 775.082, s. 775.083 or s. 775.084.

23 Section 4. Section 561.54, Florida Statutes, is
24 amended to read:

25 561.54 Certain deliveries of beverages prohibited.--

26 (1) It is unlawful for common or permit carriers,
27 operators of privately owned cars, trucks, buses, or other
28 conveyances or out-of-state manufacturers or suppliers to make
29 delivery from without the state of any alcoholic beverage to
30 any person, association of persons, or corporation within the
31 state, except to qualified manufacturers, distributors, and

1 exporters of such beverages so delivered and to qualified
2 bonded warehouses in this state.
3 (2) Any licensee aggrieved by a violation of this
4 section may bring an action in any court of competent
5 jurisdiction to recover for the state all moneys obtained by
6 common or permit carriers, operators of privately owned cars,
7 trucks, buses, or other conveyances or obtained by
8 out-of-state manufacturers or suppliers as a result of the
9 delivery of alcoholic beverages in violation of this section
10 and may obtain a declaratory judgment that an act or practice
11 violates this section and enjoin any person who is violating
12 or has violated this section. In addition to such relief, the
13 court may order the confiscation and destruction of any
14 alcoholic beverages delivered in violation of this section.
15 In assessing damages, the court shall enter judgment against a
16 defendant for three times the amount of the delivery charges
17 proved or the fair market value of merchandise unlawfully
18 brought into the state. Payment or satisfaction of any
19 judgment under this section, other than for attorney's fees
20 and costs, shall be made in its entirety to the state. In any
21 successful action under this section, the court shall award
22 the plaintiff costs and reasonable attorney's fees.

23 Section 5. Section 561.545, Florida Statutes, is
24 created to read:

25 561.545 Certain shipments of beverages prohibited;
26 providing penalties; providing an exception for sacramental
27 beverages.--The Legislature finds, determines, and declares
28 that the direct shipment of alcoholic beverages by persons in
29 the business of selling alcoholic beverages to residents of
30 this state in violation of the Beverage Law poses a serious
31 threat to the public health, safety, and welfare, to state

1 revenue collections, and to the economy of the state. The
2 Legislature further finds, determines, and declares that the
3 present penalties for illegal direct shipment of alcoholic
4 beverages to residents of this state are not adequate to
5 ensure compliance with the Beverage Law and that the measures
6 provided for in this section are fully consistent with the
7 powers conferred upon the State of Florida by the Twenty-first
8 Amendment to the United States Constitution.

9 (1) Any person in the business of selling alcoholic
10 beverages who knowingly and intentionally ships, or causes to
11 be shipped, any alcoholic beverage from an out-of-state
12 location directly to any person in this state who does not
13 hold a valid manufacturer's or wholesaler's license or
14 exporter's registration issued by the Division of Alcoholic
15 Beverages and Tobacco or who is not a state bonded warehouse
16 is in violation of this section.

17 (2) Any common or permit carrier, operator of
18 privately owned car, truck, bus, or other conveyance who
19 knowingly and intentionally transports any alcoholic beverage
20 from an out-of-state location directly to any person in this
21 state who does not hold a valid manufacturer's or wholesaler's
22 license or exporter's registration or who is not a state
23 bonded warehouse is in violation of this section.

24 (3) Any person found by the division to be in
25 violation of subsection (1) or subsection (2) shall be issued
26 a cease and desist order by certified mail. Any person who,
27 after receiving a cease and desist order, is found by the
28 division to be in violation of subsection (1) or subsection
29 (2) for a second or subsequent occurrence, within a 2-year
30 period after the first violation, commits a felony of the
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1 third degree, punishable as provided in s. 775.082, s. 775.083
2 or s. 775.084.

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

6 Section 6. Paragraph (a) of subsection (1) of section
7 561.68, Florida Statutes, is amended to read:

8 561.68 Licensure; distributor's salesmen; providing
9 exceptions.--

10 (1)(a) Before any person may solicit or sell to
11 vendors or become employed as a salesman of spirituous or
12 vinous beverages for a licensed Florida distributor in
13 accordance with the provisions of this section, such person
14 shall file with the district supervisor of the district of the
15 Division of Alcoholic Beverage and Tobacco in which the
16 distributor's premises is located a sworn application for a
17 license on forms provided by the division. Prior to any
18 application being approved, the division shall require the
19 applicant to file a fee of \$50 and file a set of fingerprints
20 on regular United States Department of Justice forms. The
21 licensure requirement provided in this paragraph shall not
22 apply to the solicitation or sale of cider.

23 Section 7. This act shall take effect upon becoming a
24 law.

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