

STORAGE NAME: h0209z.rs
DATE: May 14, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
REGULATED SERVICES
FINAL ANALYSIS**

BILL #: HB 209
RELATING TO: Alcohol Sales/Local Option Election
SPONSOR(S): Representative Bitner and Others
COMPANION BILL(S): SB 340

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REGULATED SERVICES YEAS 7 NAYS 0
- (2) ELECTION REFORM YEAS 8 NAYS 0
- (3) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (4)
- (5)

I. FINAL ACTION STATUS:

This bill passed the Legislature and became Chapter 99-380, Laws of Florida.

II. SUMMARY:

The bill allows a county, which has already voted to allow the package sales of alcoholic beverages, to hold a local option election on the sole question of also allowing sales for consumption on premises.

The bill has no economic impact on state revenues.

The bill will take effect July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Constitution of the State of Florida, Article VIII, Sections 5 and 6, reserves to each county the authority to determine, through a local option election, whether the sale of "intoxicating liquors, wines, or beer" [intoxicating beverages] may be allowed in that county. Section 5 requires a petition request signed by 25% of the electors in the county to hold an election and prohibits another election on the same subject for a period of two years. When approved by a county, the Florida Constitution requires the sale of intoxicating beverages to be regulated by state law.

Chapter 567, Florida Statutes, sets forth the procedure for petitioning for and holding a local option election to determine whether the sale of intoxicating beverages may be sold in a county. Section 567.001, Florida Statutes, defines "intoxicating liquor, wine, or beer" as containing more than 6.243 percent of alcohol by volume. This percentage allows the sale of some types of alcoholic beverages, e.g. beer, in all counties.

Section 567.01, Florida Statutes, states the legislative intent to avoid the necessity of holding two separate elections by determining in one election whether the sale of intoxicating beverages will be allowed in a county *and also* whether the sale, if allowed, would be restricted to package sales, or whether sales by the drink for on-premise consumption would also be allowed.

Section 567.06, Florida Statutes, requires the ballot to pose two, two-part questions to the electorate. The first question is whether to vote "for" or "against" the sale of intoxicating beverages. The second question is to vote whether to allow "sales by the package and drink" or whether to allow "sales by the package only."

B. EFFECT OF PROPOSED CHANGES:

This bill amends ss. 567.01, 567.06 and 567.07, Florida Statutes, to provide a county, which has previously voted to allow the sale of intoxicating beverages by the package, with an additional option of having an election, after the expiration of two years, on the sole question of whether to also allow sales of intoxicating beverages for consumption on premises. This legislation would not, however, preclude a county election which poses the two, two-part questions presently required by general law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 567.01, 567.06 and 567.07, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsections (2) and (6) of s. 567.01, Florida Statutes, to allow a local option election to determine whether the sale of intoxicating beverages may be sold in a county for on premise consumption. Amends legislative intent.

Section 2. Creates a new subsection (3) in s. 567.06, Florida Statutes, to provide additional ballot instructions.

Section 3. Creates a new paragraph (c) in subsection (2) of s. 567.07, Florida Statutes, to allow a county which has already voted to allow the package sale of intoxicating liquors, to conduct a local

option election on the sole question of whether to also allow the sale of intoxicating liquors for consumption on premises. Requires expiration of two years from date of previous election prior to holding a new election.

Section 4. Provides that the act shall take effect July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

This bill does not require a separate local option election, rather it provides an option that the electorate of the county may choose to utilize. Further, even if this were to be considered a conditional mandate, as an elections bill it would be exempt.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

VI. COMMENTS:

At present there are seven counties in Florida which remain "dry" -- Hardee, Lafayette, Liberty, Madison, Santa Rosa, Suwannee and Washington. Four other counties are "wet" for package sales only -- Calhoun, Hamilton, Holmes and Jackson.

Staff makes note of the inadvertent omission of existing statutory text on Page 1, line 20 of the bill. This drafting error will be corrected by a technical amendment which will be offered by the Rules Committee when the legislation reaches the House floor.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

This bill passed both the Election Reform Committee on March 8, 1999 and the Community Affairs Committee on March 17, 1999, unanimously and without amendment. The bill was placed on the Special Order Calendar and an amendment was adopted on March 30, 1999 which made technical revisions to the legislation. The bill subsequently passed the House of Representatives with 113 Yea votes and 3 Nay votes on April 6, 1999. The bill was referred to the Senate Committees on Regulated Industries and Comprehensive Planning, Local and Military Affairs on April 13, 1999. On April 22, 1999, the bill was withdrawn from all Senate Committees of reference and was substituted for CS/SB 340. The bill passed the Senate with 38 Yea votes and 1 Nay vote on April 26, 1999. The bill was signed by the Governor on June 18, 1999, and became Chapter 99-380, Laws of Florida.

VIII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Janet Clark Morris

Staff Director:

Paul Liepshutz

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Prepared by:

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AS FURTHER REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by: Staff Director:

Joan E. Highsmith-Smith

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON REGULATED SERVICES:
Prepared by: Staff Director:

Janet Clark Morris

Paul Liepshutz