

STORAGE NAME: h1819.rs

DATE: March 9, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
ANALYSIS**

BILL #: HB 1819

RELATING TO: Alcoholic Beverage Licenses

SPONSOR(S): Representative Renier Diaz de la Portilla

TIED BILL(S):

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

- (1) REGULATED SERVICES [CAC]
 - (2) COMMUNITY AFFAIRS [PRC]
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 1819 requires applicants for a license to sell alcoholic beverages for consumption on premises to publish a notice of their intent to obtain such a license. The notice must be published once a week for two successive weeks in a daily newspaper in the county where the license will be located. The advertisement requirement contained in this legislation applies only to the initial issuance of an alcoholic beverage license and does not apply to license renewals.

The bill requires the notice to be printed in English and specifies the form and the information which must be provided in the notice.

The bill provides that any local law or ordinance which addresses this issue, whether superior or inferior, shall supersede the requirements of this bill. If there is no controlling local act, applicants are required to comply with the provisions of this legislation.

The bill is not anticipated to have a fiscal impact on state revenue.

The bill provides that the act will take effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapters 561-565, 567 and 568, F.S., comprise Florida's Beverage Law. Section 561.02, F.S., designates the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation as the regulatory agency responsible for enforcing its provisions. The Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages. The sale of alcoholic beverages is generally considered to be a privilege and as such, licensees are held to a high standard of accountability.

Section 561.15, F.S., sets forth qualifications for applicants for licensure. Among the provisions, this section provides that:

- Licenses shall be issued only to persons of good moral character who are not less than 21 years of age;
- Licenses shall not be issued to persons who have been convicted within the past five years of any offense against the beverage laws of this state or any other state;
- Licenses shall not be issued to persons who have been convicted within the past five years of prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or any controlled substance violation; and
- Licenses shall not be issued to persons who have been convicted within the past 15 years of any felony.

Section 561.181, F.S., provides that the DABT shall issue a temporary license to an applicant, if the application does not, on its face, reveal an impairment to licensure. Section 561.18, F.S., requires the DABT to fully investigate applications for licensure, including the qualification of the applicants and a manager or person to be in charge and the premises and location sought to be licensed. There is no requirement for the DABT to seek public input concerning a premises location or an applicant's qualifications for, or impediments to, licensure.

Applications for licensure, with the exception of information providing the rank order of persons receiving notices of selection in a quota license drawing, are public records and open for public inspection.

C. EFFECT OF PROPOSED CHANGES:

HB 1819 creates s. 561.265, F.S., to require persons applying for an alcoholic beverage license which allows consumption of alcoholic beverages on a retailer's licensed premises, to publish notice of that intent. The applicant must submit the original copy of the proof of publication along with the application for license. This publication will put the general public on notice of the applicant's intent to sell alcoholic beverages from the specified location and will provide the public an opportunity to provide input to the department concerning issuance of the license.

The notice must be published once a week for two consecutive weeks in a daily newspaper in the county where the alcoholic beverage license will be issued. If there is no daily newspaper in the county, the applicant may publish notice in a weekly newspaper in the county. If, however, there is no daily or weekly newspaper, the applicant must publish notice in the county in accordance with the provisions of s. 50.021, F.S. Section 50.021, F.S., allows legal notifications to be made by posting three copies of the notice in the county, one of which must be at the front door of the courthouse, and by publication in a newspaper in the nearest county.

Subsection (2) requires the notice to be posted in English and prescribes the form of publication, which includes:

- the types of alcoholic beverages which will be sold;
- the type of establishment, e.g., a restaurant;
- the address of the establishment;
- a notification that any person wishing to speak to the matter of issuance of a license for that premises should submit comments to a specific address;
- a requirement that any such submission must be made in writing and must include the name, address, and phone number of the person making the comments; and
- the name and address of the applicant.

The bill applies this requirement only to applications for the initial issuance of a license and not for license renewals by the same applicant at the same location. Since the application process allows applicants to apply for, receive and operate under a temporary license while the license application is being investigated, it appears that this notice must take place prior to the application for a temporary license.

The bill provides that any local law or ordinance which addresses this issue, whether superior or inferior, will supersede the requirements of this bill. If there is no controlling local act, applicants are required to comply with the provisions of this legislation.

If approved, the act will take effect July 1, 2000

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates a new section 561.265, Florida Statutes

This new statutory language requires persons applying for a license to sell alcoholic beverages for consumption on premises to certify to the department that the person has

published notice of the intent to operate such a business and proscribes standards for such publication.

Subsection (1)(a) requires the publication of notice to take place in the county where the prospective licensed premises are located.

Subsection (1)(b) requires the notice to be published once a week for two consecutive weeks in a daily newspaper. If there is no daily newspaper in the county, the applicant may publish notice in a weekly newspaper in the county. If, however, there is no daily or weekly newspaper, the applicant must publish notice in the county in accordance with the provisions of s. 50.021, F.S. Section 50.021, F.S., allows legal notifications to be made by posting three copies of the notice in the county, one of which must be at the front door of the courthouse, and by publication in a newspaper in the nearest county.

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- a requirement that any such submission must be made in writing and must include the name, address, and phone number of the person making the comments; and
- the name and address of the applicant.

Subsection (3) applies this requirement only to applications for the initial issuance of a license and not for license renewals by the same applicant at the same location.

Subsection (4) requires the applicant to submit the original copy of the proof of publication along with the application for license.

Subsection (5) provides that any local law or ordinance which addresses this issue, whether superior or inferior, shall supersede the requirements of this bill. If there is no controlling local act, applicants are required to comply with the provisions of this legislation.

Section 2. The effective date provides that the act will take effect July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Implementation of this legislation is not anticipated to have a fiscal impact on state revenue collections.

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2. Expenditures:

Implementation of this legislation is not anticipated to have a fiscal impact on state revenue expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Applicants for a license to sell alcoholic beverages for consumption on their licensed premises will be required to incur the cost of advertising that intent as provided in this legislation. The cost of publishing such notice will vary from locality to locality and between newspapers and is, therefore, indeterminate.

D. FISCAL COMMENTS:

N/A

IV. 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.

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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

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