

By Representative Bitner

1 A bill to be entitled
2 An act relating to the Department of Business
3 and Professional Regulation; amending s.
4 509.049, F.S.; revising language with respect
5 to food service employee training; providing
6 for a food service training certificate
7 program; amending s. 509.291, F.S.; revising
8 the membership of the Hotel and Restaurant
9 Advisory Council; amending s. 561.01, F.S.;
10 revising the definition of the term "licensee"
11 under the Beverage Law; amending s. 561.17,
12 F.S.; revising a provision relating to license
13 and registration applications under the
14 Beverage Law to provide additional
15 requirements; amending s. 561.181, F.S.;
16 providing a definition; revising language with
17 respect to temporary initial licenses; amending
18 s. 561.20, F.S.; revising language with respect
19 to the limitation on the number of alcoholic
20 beverage licenses issued; amending s. 561.29,
21 F.S.; revising language with respect to the
22 revocation and suspension of licenses under the
23 Beverage Law to include another prohibition;
24 amending s. 561.32, F.S.; revising a provision
25 relating to the transfer of a license; amending
26 s. 561.331, F.S.; revising language with
27 respect to a temporary license issued upon
28 application for transfer, change of location,
29 or change of type or series; providing a
30 definition; providing an effective date.
31

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

2

3 Section 1. Section 509.049, Florida Statutes, is
4 amended to read:

5 509.049 Food service employee training.--The division
6 shall adopt, by rule, minimum food safety protection standards
7 for the training of all food service employees who are
8 responsible for the storage, preparation, display, or serving
9 of foods to the public in establishments regulated under this
10 chapter. These standards shall not include an examination,
11 but shall provide for a food safety training certificate
12 program for food service employees to be administered by a
13 private nonprofit provider chosen by the division. The
14 division shall contract with a provider on a 4-year basis and
15 is authorized to promulgate by rule a fee for the program. In
16 making its selection, the division shall consider factors
17 including, but not limited to, the experience and history of
18 the provider in representing the food service industry, the
19 provider's demonstrated commitment to food safety, and its
20 ability to provide a statewide program with industry support
21 and participation. If an operator of public food service
22 establishments provides a food safety training program to its
23 employees prior to the effective date of this act, the
24 operator shall submit its training program to the division for
25 its review and approval. If the operator's food safety
26 training program is approved by the division, nothing in this
27 section shall require the employees of such an operator to
28 receive training from the division's contracted provider.
29 Review and approval by the division of a program under this
30 section shall include, but is not limited to, the minimum food
31 safety standards adopted by the division in accordance with

1 ~~this section~~ or certification. It shall be the duty of the
2 licensee of the public food service establishment to provide
3 training in accordance with the described rule to all
4 employees under the licensee's supervision or control. The
5 licensee may designate a certified food service manager to
6 perform this function as an agent of the licensee.

7 Section 2. Subsection (1) of section 509.291, Florida
8 Statutes, is amended to read:

9 509.291 Advisory council.--

10 (1) There is created a nine-member ~~an 18-member~~
11 advisory council.

12 (a) The Secretary of Business and Professional
13 Regulation shall appoint six ~~11~~ voting members to the advisory
14 council. Each member appointed by the secretary must be an
15 operator of an establishment licensed under this chapter and
16 shall represent the industries regulated by the division,
17 except that one member appointed by the secretary must be a
18 layperson and shall represent the general public. Such members
19 of the council shall serve staggered terms of 4 years.

20 (b) ~~The division, the Department of Health, The~~
21 Florida Hotel and Motel Association, the Florida Restaurant
22 Association, and the Florida Apartment Association, ~~and the~~
23 Florida Association of Realtors shall each designate one
24 representative to serve as a voting member of the council, ~~and~~
25 ~~one member appointed by the secretary must be appointed to~~
26 ~~represent nontransient public lodging establishments.~~ In
27 addition, one hospitality administration educator from an
28 institution of higher education affiliated with the
29 Hospitality Education Program pursuant to s. 509.302(2) shall
30 serve as an ex officio for a term of 2 years as a nonvoting
31 ~~voting~~ member of the council. This single representative

1 shall be designated on a rotating basis by the institution or
2 institutions of higher education affiliated with this program
3 pursuant to s. 509.302(2).

4 (c) Any member who fails to attend three consecutive
5 council meetings without good cause may be removed from the
6 council by the secretary.

7 Section 3. Subsection (14) of section 561.01, Florida
8 Statutes, is amended to read:

9 561.01 Definitions.--As used in the Beverage Law:

10 (14) "Licensee," ~~"applicant,"~~ or "person" means a
11 legal or business entity, person, or persons that hold a
12 license issued by the division and meets the qualifications
13 set forth in s. 561.15 ~~an individual, corporation, firm,~~
14 ~~partnership, limited partnership, incorporated association,~~
15 ~~unincorporated association, professional association, or other~~
16 ~~legal or commercial entity; a combination of such entities; or~~
17 ~~any such entity having a financial interest, directly or~~
18 ~~indirectly, in another such entity.~~

19 Section 4. Subsection (1) of section 561.17, Florida
20 Statutes, is amended to read:

21 561.17 License and registration applications; approved
22 person.--

23 (1) Any person, before engaging in the business of
24 manufacturing, bottling, distributing, selling, or in any way
25 dealing in alcoholic beverages, shall file, with the district
26 licensing personnel ~~supervisor~~ of the district of the division
27 in which the place of business for which a license is sought
28 is located, a sworn application in duplicate on forms provided
29 to the district licensing personnel ~~supervisor~~ by the
30 division. The applicant must be a legal or business entity,
31 person, or persons and must include all persons, officers,

1 shareholders, and directors of such legal or business entity
2 that have a direct or indirect interest in the business
3 seeking to be licensed under this part. However, the applicant
4 does not include any person that derives revenue from the
5 license solely through a contractual relationship with the
6 licensee, the substance of which contractual relationship is
7 not related to the control of the sale of alcoholic beverages.
8 Prior to any application being approved, the division may
9 require the applicant to file a set of fingerprints on regular
10 United States Department of Justice forms for herself or
11 himself and for any person or persons interested directly or
12 indirectly with the applicant in the business for which the
13 license is being sought, when so required by the division. If
14 the applicant or any person who is interested with the
15 applicant either directly or indirectly in the business or who
16 has a security interest in the license being sought or has a
17 right to a percentage payment from the proceeds of the
18 business, either by lease or otherwise, is not qualified, the
19 application shall be denied by the division. However, any
20 company regularly traded on a national securities exchange and
21 not over the counter; any insurer, as defined in the Florida
22 Insurance Code; or any bank or savings and loan association
23 chartered by this state, another state, or the United States
24 which has an interest, directly or indirectly, in an alcoholic
25 beverage license shall not be required to obtain division
26 approval of its officers, directors, or stockholders or any
27 change of such positions or interests. A shopping center with
28 five or more stores, one or more of which has an alcoholic
29 beverage license and is required under a lease common to all
30 shopping center tenants to pay no more than 10 percent of the
31 gross proceeds of the business holding the license to the

1 shopping center, shall not be considered as having an
2 interest, directly or indirectly, in the license.

3 Section 5. Section 561.181, Florida Statutes, is
4 amended to read:

5 561.181 Temporary initial licenses.--

6 (1)(a) For the purpose of this section, the terms
7 "denied" or "denial" are deemed to be the final agency action
8 denying the application for licensure pursuant to s. 120.60.

9 (b) A temporary initial license shall not be continued
10 or extended during any proceeding for judicial review pursuant
11 to s. 120.68 challenging or appealing the final agency action
12 denying the application, when the temporary initial license is
13 denied due to the failure of the applicant to disclose prior
14 felony convictions or the applicant's true identity.

15 (c) A temporary initial license shall be continued or
16 extended during any proceeding for judicial review pursuant to
17 s. 120.68 challenging or appealing the final agency action
18 denying the application, when the temporary initial license is
19 denied for reasons other than for the failure of the applicant
20 to disclose prior felony convictions or the applicant's true
21 identity.

22 (d) A temporary initial license shall be valid for up
23 to 90 days and may be extended by the division for an
24 additional period of time for good cause. The division may at
25 any time during such period grant or deny the license applied
26 for, notwithstanding s. 120.60.

27 (2)(1)(a) When any person has filed a properly
28 completed application which does not on its face disclose any
29 reason for denying an alcoholic beverage license, the division
30 shall issue to such person a temporary initial license of the
31 same type and series for which the application has been

1 submitted, to be valid for all purposes under the Beverage
2 Law, except as provided in paragraph (b).

3 (b) A temporary initial license issued under this
4 section entitles a temporary licensee ~~vendor~~ to purchase
5 alcoholic beverages for cash only. This paragraph does not
6 apply:

7 1. If the entity holding the temporary initial license
8 is also the holder of a beverage license authorizing the
9 purchase of the same type of alcoholic beverages as is
10 authorized under the temporary initial license.

11 2. To purchases made as part of a single-transaction
12 cooperative purchase placed by a pool buying agent.

13 ~~(3)(2)~~ The temporary initial license shall be valid
14 until the application is denied or until 14 days after the
15 application is approved.

16 ~~(4)(3)~~ A temporary initial license shall expire and
17 shall not be continued or extended beyond the date the
18 division denies the application for license, beyond 14 days
19 after the date the division approves the application for
20 license, beyond the date the applicant pays the license fee
21 for and the division issues the license applied for, beyond
22 the time period provided for in subsection (1), or beyond the
23 date the temporary initial license otherwise expires by law,
24 whichever date occurs first.

25 ~~(5)(4)~~ Each applicant seeking a temporary initial
26 license shall pay to the division for such license a fee equal
27 to one-fourth of the annual license fee for the type and
28 series of license being applied for or \$100, whichever is
29 greater, which fee shall be deposited into the General Revenue
30 Fund.

31

1 Section 6. Subsection (1) and paragraph (a) of
2 subsection (2) of section 561.20, Florida Statutes, are
3 amended to read:

4 561.20 Limitation upon number of licenses issued.--

5 (1) No license under s. 565.02(1)(a)-(f), inclusive,
6 shall be issued so that the number of such licenses within the
7 limits of the territory of any county exceeds one such license
8 to each 7,500 ~~5,000~~ residents within such county. Regardless
9 of the number of quota licenses issued prior to October 1,
10 2000 ~~1992~~, on and after that date, a new license under s.
11 565.02(1)(a)-(f), inclusive, shall be issued for each
12 population increase of 7,500 ~~5,000~~ residents above the number
13 of residents who resided in the county according to the April
14 1, 1999 ~~1991~~, Florida Estimate of Population as published by
15 the Bureau of Economic and Business Research at the University
16 of Florida, and thereafter, based on the last regular
17 population estimate prepared pursuant to s. 186.901, for such
18 county. Such population estimates shall be the basis for
19 annual license issuance regardless of any local acts to the
20 contrary. However, such limitation shall not prohibit the
21 issuance of at least three licenses in any county that may
22 approve the sale of intoxicating liquors in such county.

23 (2)(a) No such limitation of the number of licenses as
24 herein provided shall henceforth prohibit the issuance of a
25 special license to:

26 1. Any bona fide hotel, motel, or motor court of not
27 fewer than 80 guest rooms in any county having a population of
28 less than 50,000 residents, and of not fewer than 100 guest
29 rooms in any county having a population of 50,000 residents or
30 greater; or any bona fide hotel or motel located in a historic
31 structure, as defined in s. 561.01(21), with fewer than 100

1 guest rooms which derives at least 51 percent of its gross
2 revenue from the rental of hotel or motel rooms, which is
3 licensed as a public lodging establishment by the Division of
4 Hotels and Restaurants; provided, however, that a bona fide
5 hotel or motel with no fewer than 10 and no more than 25 guest
6 rooms which is a historic structure, as defined in s.
7 561.01(21), in a municipality that on the effective date of
8 this act has a population, according to the University of
9 Florida's Bureau of Economic and Business Research Estimates
10 of Population for 1998, of no fewer than 25,000 and no more
11 than 35,000 residents and that is within a constitutionally
12 chartered county may be issued a special license. This special
13 license shall allow the sale and consumption of alcoholic
14 beverages only on the licensed premises of the hotel or motel.
15 In addition, the hotel or motel must derive at least 60
16 percent of its gross revenue from the rental of hotel or motel
17 rooms and the sale of food and nonalcoholic beverages;
18 provided that the provisions of this subparagraph shall
19 supersede local laws requiring a greater number of hotel
20 rooms;

21 2. Any condominium accommodation of which no fewer
22 than 100 condominium units are wholly rentable to transients
23 and which is licensed under the provisions of chapter 509,
24 except that the license shall be issued only to the person or
25 corporation which operates the hotel or motel operation and
26 not to the association of condominium owners;

27 3. Any condominium accommodation of which no fewer
28 than 50 condominium units are wholly rentable to transients,
29 which is licensed under the provisions of chapter 509, and
30 which is located in any county having home rule under s. 10 or
31 s. 11, Art. VIII of the State Constitution of 1885, as

1 amended, and incorporated by reference in s. 6(e), Art. VIII
2 of the State Constitution, except that the license shall be
3 issued only to the person or corporation which operates the
4 hotel or motel operation and not to the association of
5 condominium owners; ~~or~~
6 4. Any restaurant having 2,500 square feet of service
7 area and equipped to serve 150 persons full course meals at
8 tables at one time, and deriving at least 51 percent of its
9 gross revenue from the sale of food and nonalcoholic
10 beverages; however, no restaurant granted a special license on
11 or after January 1, 1958, pursuant to general or special law
12 shall operate as a package store, nor shall intoxicating
13 beverages be sold under such license after the hours of
14 serving food have elapsed; or-
15 5. Any caterer licensed by the Division of Hotels and
16 Restaurants under chapter 509. Notwithstanding any other
17 provision of law to the contrary, a licensee under this
18 subparagraph shall sell or serve alcoholic beverages only by
19 the individual drink for consumption on the premises of a
20 catered event at which the licensee is also providing prepared
21 food, and shall prominently display its license at any catered
22 event at which the caterer is selling or serving alcoholic
23 beverages. A licensee under this subparagraph shall purchase
24 all alcoholic beverages it sells or serves at a catered event
25 from a vendor licensed under s. 563.02(1), s. 564.02(1), or s.
26 561.20(1), as appropriate. A licensee under this subparagraph
27 may not store any alcoholic beverages to be sold or served at
28 a catered event. Any alcoholic beverages purchased by a
29 licensee under this subparagraph for a catered event that are
30 not used at that event must remain with the customer, provided
31 that, if the vendor accepts unopened alcoholic beverages, the

1 licensee may return such alcoholic beverages to the vendor for
2 a credit or reimbursement. Regardless of the county or
3 counties in which the licensee operates, a licensee under this
4 subparagraph shall pay the annual state license tax set forth
5 in s. 565.02(1)(b). A licensee under this subparagraph must
6 maintain for a period of 3 years all records required by
7 department rule to demonstrate compliance with the
8 requirements of this subparagraph, including licensed vendor
9 receipts for the purchase of alcoholic beverages and records
10 identifying each customer and the location and date of each
11 catered event. Notwithstanding any provision of law to the
12 contrary, any vendor licensed under s. 561.20(1) may, without
13 any additional licensure under this subparagraph, serve or
14 sell alcoholic beverages for consumption on the premises of a
15 catered event at which prepared food is provided by a caterer
16 licensed under chapter 509. If a licensee under this
17 subparagraph also possesses any other license under the
18 Beverage Law, the license issued under this subparagraph shall
19 not authorize the holder to conduct activities on the premises
20 to which the other license or licenses apply that would
21 otherwise be prohibited by the terms of that license or the
22 Beverage Law. The Division of Alcoholic Beverages and Tobacco
23 is hereby authorized to adopt rules to administer the license
24 created by this subparagraph, to include rules governing
25 licensure, recordkeeping, and enforcement. All fees collected
26 by the division pursuant to this subparagraph shall be
27 deposited into the Hotel and Restaurant Trust Fund created
28 pursuant to s. 509.072.

29
30 However, any license heretofore issued to any such hotel,
31 motel, motor court, or restaurant or hereafter issued to any

1 such hotel, motel, or motor court, including a condominium
2 accommodation, under the general law shall not be moved to a
3 new location, such license being valid only on the premises of
4 such hotel, motel, motor court, or restaurant. Licenses issued
5 to hotels, motels, motor courts, or restaurants under the
6 general law and held by such hotels, motels, motor courts, or
7 restaurants on May 24, 1947, shall be counted in the quota
8 limitation contained in subsection (1). Any license issued
9 for any hotel, motel, or motor court under the provisions of
10 this law shall be issued only to the owner of the hotel,
11 motel, or motor court or, in the event the hotel, motel, or
12 motor court is leased, to the lessee of the hotel, motel, or
13 motor court; and the license shall remain in the name of the
14 owner or lessee so long as the license is in existence. Any
15 special license now in existence heretofore issued under the
16 provisions of this law cannot be renewed except in the name of
17 the owner of the hotel, motel, motor court, or restaurant or,
18 in the event the hotel, motel, motor court, or restaurant is
19 leased, in the name of the lessee of the hotel, motel, motor
20 court, or restaurant in which the license is located and must
21 remain in the name of the owner or lessee so long as the
22 license is in existence. Any license issued under this
23 section shall be marked "Special," and nothing herein provided
24 shall limit, restrict, or prevent the issuance of a special
25 license for any restaurant or motel which shall hereafter meet
26 the requirements of the law existing immediately prior to the
27 effective date of this act, if construction of such restaurant
28 has commenced prior to the effective date of this act and is
29 completed within 30 days thereafter, or if an application is
30 on file for such special license at the time this act takes
31 effect; and any such licenses issued under this proviso may be

1 annually renewed as now provided by law. Nothing herein
2 prevents an application for transfer of a license to a bona
3 fide purchaser of any hotel, motel, motor court, or restaurant
4 by the purchaser of such facility or the transfer of such
5 license pursuant to law.

6 Section 7. Paragraph (k) is added to subsection (1) of
7 section 561.29, Florida Statutes, to read:

8 561.29 Revocation and suspension of license; power to
9 subpoena.--

10 (1) The division is given full power and authority to
11 revoke or suspend the license of any person holding a license
12 under the Beverage Law, when it is determined or found by the
13 division upon sufficient cause appearing of:

14 (k) Failure by the holder of any license issued under
15 the Beverage Law to comply with a stipulation, consent order,
16 or final order.

17 Section 8. Subsection (5) of section 561.32, Florida
18 Statutes, is amended to read:

19 561.32 Transfer of licenses; change of officers or
20 directors; transfer of interest.--

21 (5) The division shall waive the transfer fee and the
22 delinquent penalties, but not the license renewal fee, when
23 the transfer of an interest in an alcoholic beverage license
24 occurs by operation of law because of a death, judicial
25 proceedings, court appointment of a fiduciary, foreclosure or
26 forced judicial sale, bankruptcy proceedings, or seizure of a
27 license by a government agency.

28 Section 9. Section 561.331, Florida Statutes, is
29 amended to read:

30 561.331 Temporary license upon application for
31 transfer, change of location, or change of type or series.--

1 (1)(a) For the purpose of this section, the terms
2 "denied" or "denial" are deemed to be the final agency action
3 denying the application for licensure pursuant to s. 120.60.
4 (b) A temporary license for transfer, change of
5 location, or change of type or series shall not be continued
6 or extended during any proceeding for judicial review pursuant
7 to s. 120.68 challenging or appealing the final agency action
8 denying the application, when the temporary license is denied
9 due to the failure of the applicant to disclose prior felony
10 convictions or the applicant's true identity.
11 (c) A temporary license for transfer, change of
12 location, or change of type or series shall be continued or
13 extended during any proceeding for judicial review pursuant to
14 s. 120.68 challenging or appealing the final agency action
15 denying the application, when the temporary license is denied
16 for reasons other than the failure of the applicant to
17 disclose all prior felony convictions or the applicant's true
18 identity.
19 (d) A temporary license shall be valid for up to 90
20 days and may be extended by the division for an additional
21 period of time for good cause. The division may at any time
22 during such period grant or deny the license applied for,
23 notwithstanding s. 120.60.
24 (2)(1) Upon the filing of a properly completed
25 application for transfer pursuant to s. 561.32, which
26 application does not on its face disclose any reason for
27 denying an alcoholic beverage license, by any purchaser of a
28 business which possesses a beverage license of any type or
29 series, the purchaser of such business and the applicant for
30 transfer are entitled as a matter of right to receive a
31 temporary beverage license of the same type and series as that

1 held by the seller of such business. The temporary license
2 will be valid for all purposes under the Beverage Law until
3 the application is denied,~~or~~ until 14 days after the
4 application is approved, or until the time period provided
5 under subsection (1) has elapsed, whichever occurs first. Such
6 temporary beverage license shall be issued by the district
7 supervisor of the district in which the application for
8 transfer is made upon the payment of a fee of \$100. A
9 temporary licensee, while purchaser operating under a valid
10 temporary license issued under the provisions of this
11 subsection is subject to the same rights, privileges, duties,
12 and limitations of a beverage licensee as are provided by the
13 Beverage Law, except that purchases of alcoholic beverages
14 during the term of such temporary license shall be for cash
15 only. However, such cash-only restriction does not apply if
16 the entity holding a temporary license pursuant to this
17 section purchases alcoholic beverages as part of a
18 single-transaction cooperative purchase placed by a pool
19 buying agent or if such entity is also the holder of a state
20 beverage license authorizing the purchase of the same type of
21 alcoholic beverages as authorized under the temporary license.
22 (3)(2) Upon the filing of a properly completed an
23 application for change of location pursuant to s. 561.33 by
24 any qualified licensee who possesses a beverage license of any
25 type or series, which application does not on its face
26 disclose any reason for denying an alcoholic beverage license,
27 the licensee is entitled as a matter of right to receive a
28 temporary beverage license of the same series as that license
29 held by the licensee to be valid for all purposes under the
30 Beverage Law until the application is denied,~~or~~ until 14 days
31 after the application is approved, or until the time period

1 provided under subsection (1) has elapsed, whichever occurs
2 first. Such temporary license shall be issued by the district
3 supervisor of the district in which the application for change
4 of location is made without the payment of any further fee or
5 tax. A temporary licensee, while operating under a valid
6 temporary license issued under the provisions of this
7 subsection, is subject to the same rights, privileges, duties,
8 and limitations of a beverage licensee as are provided by the
9 Beverage Law.

10 (4)(3) Upon the filing of a properly completed
11 application to change the type or series of a beverage license
12 by any qualified licensee having a beverage license of any
13 type or series, which application does not on its face
14 disclose any reason for denying an alcoholic beverage license,
15 the licensee is entitled as a matter of right to receive a
16 temporary beverage license of the type or series applied for,
17 which temporary license is valid for all purposes under the
18 Beverage Law until the application is denied, or until 14 days
19 after the application is approved, or until the time period
20 provided under subsection (1) has elapsed, whichever occurs
21 first. Such temporary license shall be issued by the district
22 supervisor of the district in which the application for change
23 of type or series is made. If the fee for the type or series
24 or license applied for is greater than the fee for the license
25 then held by the applicant, the applicant for such temporary
26 license must pay a fee in the amount of \$100 or one-fourth of
27 the difference between the fees, whichever amount is greater.
28 A fee is not required for an application for a temporary
29 license of a type or series for which the fee is the same as
30 or less than the fee for the license then held by the
31 applicant. ~~The holder of~~ A temporary licensee, while operating

1 under a valid temporary license under this subsection, is
2 subject to the same rights, privileges, duties, and
3 limitations of a beverage licensee as are provided by the
4 Beverage Law.

5 (5)~~(4)~~ Nothing in this section shall be construed to
6 permit the transfer or issuance of temporary licenses contrary
7 to the county-by-county limitation on the number of such
8 licenses based on population as provided in s. 561.20(1).

9 Section 10. This act shall take effect July 1, 2000.

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11 *****

12 HOUSE SUMMARY

13 Revises provisions of law relating to the Department of
14 Business and Professional Regulation to:

- 15 1. Provide for a food service training certificate
16 program.
- 17 2. Revise the membership of the Hotel and Restaurant
18 Advisory Council.
- 19 3. Revise the definition of a licensee under the
20 Beverage Law.
- 21 4. Provide an additional requirement for license and
22 registration applications under the Beverage Law.
- 23 5. Revise language with respect to temporary initial
24 licenses under the Beverage Law.
- 25 6. Increase the population requirements and revise
26 language with respect to the number of alcoholic beverage
27 licenses issued.
- 28 7. Provide an additional prohibition for which
29 license suspension or revocation may occur under the
30 Beverage Law.
- 31 8. Revise language with respect to a temporary
license issued upon application for transfer, change of
location, or change of type or series of license.

See bill for details.