

By Senator King

8-1421-00

1 A bill to be entitled
2 An act relating to the Beverage Law; amending
3 s. 561.01, F.S.; redefining the term
4 "licensee"; amending s. 561.17, F.S.; requiring
5 additional information on license applications;
6 amending s. 561.181, F.S.; revising provisions
7 relating to the granting and duration of a
8 temporary initial license; amending s. 561.20,
9 F.S.; increasing certain population
10 requirements relating to the limitation on
11 numbers of licenses; amending s. 561.29, F.S.;
12 providing an additional ground for suspending
13 or revoking a license; amending s. 561.32,
14 F.S.; prohibiting the waiving of a license
15 renewal fee; amending s. 561.331, F.S.;
16 revising provisions relating to the granting
17 and duration of a temporary license upon
18 application for transfer, change of location,
19 or change of type or series; amending s.
20 561.501, F.S.; prohibiting the failure to remit
21 certain collected surcharges relating to the
22 sale of alcoholic beverages for consumption on
23 the premises; providing an effective date.
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25 Be It Enacted by the Legislature of the State of Florida:
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27 Section 1. Subsection (14) of section 561.01, Florida
28 Statutes, is amended to read:
29 561.01 Definitions.--As used in the Beverage Law:
30 (14) "Licensee," ~~"applicant,"~~ or ~~"person"~~ means a
31 person who holds a license issued under s. 561.15.~~an~~

1 ~~individual, corporation, firm, partnership, limited~~
2 ~~partnership, incorporated association, unincorporated~~
3 ~~association, professional association, or other legal or~~
4 ~~commercial entity; a combination of such entities; or any such~~
5 ~~entity having a financial interest, directly or indirectly, in~~
6 ~~another such entity.~~

7 Section 2. Subsection (1) of section 561.17, Florida
8 Statutes, is amended to read:

9 561.17 License and registration applications; approved
10 person.--

11 (1) Any person, before engaging in the business of
12 manufacturing, bottling, distributing, selling, or in any way
13 dealing in alcoholic beverages, shall file, with ~~the district~~
14 ~~supervisor of~~ the district of the division in which the place
15 of business for which a license is sought is located, a sworn
16 application in duplicate on forms provided ~~to the district~~
17 ~~supervisor~~ by the division. The application must include the
18 names of and required information concerning all officers,
19 directors, shareholders or other persons who have an interest
20 in the business. However, a person need not be included if his
21 or her income from the business is solely from a contractual
22 relationship with the licensee which is unrelated to the
23 control of the sale of alcoholic beverages. Prior to any
24 application being approved, the division may require the
25 applicant to file a set of fingerprints on regular United
26 States Department of Justice forms for herself or himself and
27 for any person or persons interested directly or indirectly
28 with the applicant in the business for which the license is
29 being sought, when so required by the division. If the
30 applicant or any person who is interested with the applicant
31 either directly or indirectly in the business or who has a

1 security interest in the license being sought or has a right
2 to a percentage payment from the proceeds of the business,
3 either by lease or otherwise, is not qualified, the
4 application shall be denied by the division. However, any
5 company regularly traded on a national securities exchange and
6 not over the counter; any insurer, as defined in the Florida
7 Insurance Code; or any bank or savings and loan association
8 chartered by this state, another state, or the United States
9 which has an interest, directly or indirectly, in an alcoholic
10 beverage license shall not be required to obtain division
11 approval of its officers, directors, or stockholders or any
12 change of such positions or interests. A shopping center with
13 five or more stores, one or more of which has an alcoholic
14 beverage license and is required under a lease common to all
15 shopping center tenants to pay no more than 10 percent of the
16 gross proceeds of the business holding the license to the
17 shopping center, shall not be considered as having an
18 interest, directly or indirectly, in the license.

19 Section 3. Section 561.181, Florida Statutes, is
20 amended to read:

21 561.181 Temporary initial licenses.--

22 (1)(a) A temporary initial license is a separate
23 license classification, is valid only for a limited time, and
24 is a privilege that is extended when an application complies
25 with this section. The granting of a temporary initial license
26 does not indicate that an applicant has demonstrated an
27 entitlement to the alcoholic beverage license for which it is
28 applying.

29 (b) A temporary initial license that expires because
30 of final agency action denying the application for an initial
31 license may not be continued or extended for any reason,

1 including any proceeding for judicial review pursuant to s.
2 120.68 challenging or appealing the final agency action under
3 s. 120.60 which denied the application. Expiration of the
4 temporary initial license is not a basis for an appeal or
5 challenge of the final agency action that denied the
6 application.

7 (c) A temporary initial license is valid for up to 90
8 days and may be extended by the division for an additional
9 period of time for good cause. The division may at any time
10 during such period grant or deny the permit applied for,
11 notwithstanding s. 120.60.

12 (2)(1)(a) When any person has filed a properly
13 completed application which does not on its face disclose any
14 reason for denying an alcoholic beverage license, the division
15 shall issue to such person a temporary initial license of the
16 same type and series for which the application has been
17 submitted, to be valid for all purposes under the Beverage
18 Law, except as provided in paragraph (b).

19 (b) A temporary initial license issued under this
20 section entitles a vendor to purchase alcoholic beverages for
21 cash only. This paragraph does not apply:

22 1. If the entity holding the temporary initial license
23 is also the holder of a beverage license authorizing the
24 purchase of the same type of alcoholic beverages as is
25 authorized under the temporary license.

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

28 (3)(2) The temporary initial license shall be valid
29 until the application is denied or until 14 days after the
30 application is approved.

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1 (4)(3) A temporary initial license shall expire and
2 ~~may shall~~ not be continued or extended beyond the date the
3 division denies the application for license, beyond 14 days
4 after the date the division approves the application for
5 license, beyond the date the applicant pays the license fee
6 for and the division issues the license applied for, beyond
7 the period set forth in paragraph (1)(c), or beyond the date
8 the temporary initial license otherwise expires by law,
9 whichever date occurs first.

10 (5)(4) Each applicant seeking a temporary initial
11 license shall pay to the division for such license a fee equal
12 to one-fourth of the annual license fee for the type and
13 series of license being applied for or \$100, whichever is
14 greater, which fee shall be deposited into the General Revenue
15 Fund.

16 Section 4. Subsection (1) of section 561.20, Florida
17 Statutes, is amended to read:

18 561.20 Limitation upon number of licenses issued.--

19 (1) A ~~No~~ license under s. 565.02(1)(a)-(f), inclusive,
20 may not shall be issued if so that the number of such licenses
21 within the limits of the territory of any county would exceed
22 ~~exceeds~~ one such license to each 7,500 ~~5,000~~ residents within
23 the such county. Regardless of the number of quota licenses
24 issued prior to October 1, 2000 ~~1992~~, on and after that date,
25 a new license under s. 565.02(1)(a)-(f), inclusive, shall be
26 issued for each population increase of 7,500 ~~5,000~~ residents
27 above the number of residents who resided in the county
28 according to the April 1, 1999 ~~1991~~, Florida Estimate of
29 Population as published by the Bureau of Economic and Business
30 Research at the University of Florida, and thereafter, based
31 on the last regular population estimate prepared pursuant to

1 s. 186.901, for such county. Such population estimates shall
2 be the basis for annual license issuance regardless of any
3 local acts to the contrary. However, such limitation shall not
4 prohibit the issuance of at least three licenses in any county
5 that may approve the sale of intoxicating liquors in such
6 county.

7 Section 5. Paragraph (k) is added to subsection (1) of
8 section 561.29, Florida Statutes, to read:

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

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

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

18 Section 6. Subsection (5) of section 561.32, Florida
19 Statutes, is amended to read:

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

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

29 Section 7. Section 561.331, Florida Statutes, is
30 amended to read:

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1 561.331 Temporary license upon application for
2 transfer, change of location, or change of type or series.--

3 (1)(a) A temporary license is a separate license
4 classification, is valid only for a limited time, and is a
5 privilege that is extended when an application complies with
6 this section. The granting of a temporary license does not
7 indicate that an applicant has demonstrated an entitlement to
8 the alcoholic beverage license for which it is applying.

9 (b) A temporary license that expires because of final
10 agency action denying the application for a transfer or change
11 of location, type, or series, may not be continued or extended
12 for any reason, including any proceeding for judicial review
13 pursuant to s. 120.68 challenging or appealing the final
14 agency action under s. 120.60 which denied the application.
15 Expiration of the temporary license is not a basis for an
16 appeal or challenge of the final agency action that denied the
17 application.

18 (c) A temporary license is valid for up to 90 days and
19 may be extended by the division for an additional period of
20 time for good cause. The division may at any time during such
21 period grant or deny the permit applied for, notwithstanding
22 s. 120.60.

23 (2)(1) Upon the filing of a properly completed
24 application for transfer pursuant to s. 561.32, which
25 application does not on its face disclose any reason for
26 denying an alcoholic beverage license, by any purchaser of a
27 business which possesses a beverage license of any type or
28 series, the purchaser of such business and the applicant for
29 transfer are entitled as a matter of right to receive a
30 temporary beverage license of the same type and series as that
31 held by the seller of such business. The temporary license

1 will be valid for all purposes under the Beverage Law until
2 the application is denied,or until 14 days after the
3 application is approved, or until the period set forth in
4 paragraph (1)(c) has elapsed, whichever occurs first. Such
5 temporary beverage license shall be issued by the district
6 supervisor of the district in which the application for
7 transfer is made upon the payment of a fee of \$100. A licensee
8 purchaser operating under a temporary license issued under the
9 provisions of this subsection is subject to the same rights,
10 privileges, duties, and limitations of a beverage licensee as
11 are provided by the Beverage Law, except that purchases of
12 alcoholic beverages during the term of such temporary license
13 shall be for cash only. However, such cash-only restriction
14 does not apply if the entity holding a temporary license
15 pursuant to this section purchases alcoholic beverages as part
16 of a single-transaction cooperative purchase placed by a pool
17 buying agent or if such entity is also the holder of a state
18 beverage license authorizing the purchase of the same type of
19 alcoholic beverages as authorized under the temporary license.

20 (3)(2) Upon the filing of a properly completed an
21 application for change of location pursuant to s. 561.33 by
22 any qualified licensee who possesses a beverage license of any
23 type or series, which application does not on its face
24 disclose any reason for denying an alcoholic beverage license,
25 the licensee is entitled as a matter of right to receive a
26 temporary beverage license of the same series as that license
27 held by the licensee to be valid for all purposes under the
28 Beverage Law until the application is denied,or until 14 days
29 after the application is approved, or until the period set
30 forth in paragraph (1)(c) has elapsed, whichever occurs first.
31 Such temporary license shall be issued by the district

1 supervisor of the district in which the application for change
2 of location is made without the payment of any further fee or
3 tax. A licensee operating under a temporary license issued
4 under the provisions of this subsection is subject to the same
5 rights, privileges, duties, and limitations of a beverage
6 licensee as are provided by the Beverage Law.

7 (4)(3) Upon the filing of a properly completed
8 application to change the type or series of a beverage license
9 by any qualified licensee having a beverage license of any
10 type or series, which application does not on its face
11 disclose any reason for denying an alcoholic beverage license,
12 the licensee is entitled as a matter of right to receive a
13 temporary beverage license of the type or series applied for,
14 which temporary license is valid for all purposes under the
15 Beverage Law until the application is denied, or until 14 days
16 after the application is approved, or until the period set
17 forth in paragraph (1)(c) has elapsed, whichever occurs first.

18 Such temporary license shall be issued by the district
19 supervisor of the district in which the application for change
20 of type or series is made. If the fee for the type or series
21 or license applied for is greater than the fee for the license
22 then held by the applicant, the applicant for such temporary
23 license must pay a fee in the amount of \$100 or one-fourth of
24 the difference between the fees, whichever amount is greater.
25 A fee is not required for an application for a temporary
26 license of a type or series for which the fee is the same as
27 or less than the fee for the license then held by the
28 applicant. A licensee operating under ~~The holder of~~ a
29 temporary license issued under this subsection is subject to
30 the same rights, privileges, duties, and limitations of a
31 beverage licensee as are provided by the Beverage Law.

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

5 Section 8. Subsection (2) of section 561.501, Florida
6 Statutes, is amended to read:

7 561.501 Surcharge on sale of alcoholic beverages for
8 consumption on the premises; penalty.--

9 (2) The vendor shall report and remit payments to the
10 division each month by the 15th of the month following the
11 month in which the surcharges are imposed. For purposes of
12 compensating the retailer for the keeping of prescribed
13 records and the proper accounting and remitting of surcharges
14 imposed under this section, the retailer shall be allowed to
15 deduct from the payment due the state 1 percent of the amount
16 of the surcharge due. Retail records shall be kept on the
17 quantities of all liquor, wine, and beer purchased,
18 inventories, and sales. However, a collection allowance is
19 not allowed on any collections that are not timely remitted.
20 If by the 20th of the month following the month in which the
21 surcharges are imposed, reports and remittances are not made,
22 the division shall assess a late penalty in the amount of 10
23 percent of the amount due per month for each 30 days, or
24 fraction thereof, after the 20th of the month, not to exceed a
25 total penalty of 50 percent, in the aggregate, of any unpaid
26 surcharges. The division shall establish, by rule, the
27 required reporting, collection, and accounting procedures.
28 Records must be maintained for 3 years. Failure to accurately
29 and timely remit surcharges imposed under this section and to
30 remit collected surcharges alleged to have been collected
31 pursuant to this section is a violation of the Beverage Law.

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

SENATE SUMMARY

Revises provisions relating to the Beverage Law. Redefines the term "licensee." Requires additional information regarding certain persons on license applications and revises provisions relating to the granting and duration of temporary licenses. Adds an additional ground for disciplining a licensee. Prohibits the waiver of a license renewal fee. Prohibits the failure to remit certain collected surcharges relating to the sale of alcohol for consumption on the premises. (See bill for details.)