

STORAGE NAME: h0811.rs
DATE: March 10, 2000

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

BILL #: HB 811
RELATING TO: Malt Beverages; size of containers
SPONSOR(S): Representative Bitner and Others
TIED BILL(S): none

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

- (1) REGULATED SERVICES
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

Florida law presently restricts container sizes of malt beverages sold at retail to 8, 12, 16, or 32 ounce containers. Containers of one gallon or more are not restricted to a specific size. HB 811 removes the 8, 12 and 16 ounce container restrictions, and allows malt beverages to be sold in individual containers of any size which are 32 ounces or less.

This bill will have no significant fiscal impact on state revenues.

This act takes effect October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

Since 1965, the Florida Beverage Law has restricted the size containers in which beer may be sold at retail. Section 563.06(6), Florida Statutes, specifies that beer may only be sold in individual containers of 8, 12, 16, or 32 ounces. This restriction does not apply to beer packaged in individual containers of 1 gallon or more [bulk, kegs, or barrels].

Section 563.05, Florida Statutes, imposes an excise tax on malt beverages sold in bulk or in kegs or barrels of \$0.48 per gallon and in containers of less than one gallon at the rate of six cents on each pint or fraction thereof in the container. The alcoholic beverage surcharge, imposed by s. 561.501, Florida Statutes, is assessed at a rate of 2.67 cents per each 12 ounces of beer.

Section 563.045, Florida Statutes, prohibits any beer from being sold in the state until the brands or labels under which the beer is to be sold are registered with the Division of Alcoholic Beverages and Tobacco. Each registrant is required to pay an annual registration fee of \$30 for a brand or label. A recent Interim Project Report by the Senate Committee on Regulated Industries, reported that there are currently 772 brands of beer registered for sale in Florida. According to that same report, there are nearly 4,300 varieties of beer available for sale nationwide.

The most recent information available from the National Conference of State Legislatures, which was reportedly obtained from an industry research organization, indicates that 26 states, including Florida, have limitations on malt beverage container sizes. Of these 26 states, 13 have minimal restrictions such as minimum and maximum container size restrictions. The remaining 13 states, which includes Florida, have varying restrictions.

Section 564.05, Florida Statutes, prohibits the sale of wine at retail in individual containers which are larger than one gallon. Similarly, s. 565.10, Florida Statutes, prohibits the retail sale of liquor in individual containers which are larger than 1.75 liters or 59.18 ounces.

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C. EFFECT OF PROPOSED CHANGES:

This bill will repeal the container size restrictions specified in s. 563.06(6), Florida Statutes, relating to beer and allow beer to be sold at retail in individual containers of any size which is 32 ounces or less.

It cannot be determined how many additional container sizes or brands will be introduced in Florida if this statute is amended.

The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation reports that their procedures for auditing and collecting excise taxes and surcharges will be unaffected by this change, other than the need to adjust calculations on in-house audit computer programs.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (6) of s. 563.06, Florida Statutes, to delete the restriction which allows beer to be sold in only 8, 12, and 16 ounce containers and provides that beer may be sold at retail in any container size which contains no more than 32 ounces of beer.

Section 2. Provides that the act will take effect October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Each new brand of malt beverages is required to be registered with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, and an annual \$30 registration fee for each brand is required. The number of additional brands which may be registered in the state as a result of this legislation is unknown. However, the department anticipates that this legislation will have an insignificant impact on state revenue collections.

2. Expenditures:

The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation will have to make minor programming adjustments to their excise and surcharge audit programs. These costs are indeterminate at this time but are not expected to be significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic impact on the private sector has been the subject of much debate. The following statements represent some of the differing perspectives.

- ▶ Many domestic microbreweries prefer to market their product in 22 ounce containers. Because of the expense of adding additional bottle sizes for their product line, domestic microbreweries and some consumers, argue that the present restrictions keep domestic microbrewed beer out of the Florida market. This restriction is, they argue, anti-competitive and limits consumer choice.
- ▶ According to the Senate Interim Project Report, many large retailers which often rely heavily on the major core brands, report that they will continue to respond to market demands but do not anticipate major changes.
- ▶ Some maintain that the removal of these restrictions may not have the desired result for the microbreweries, since larger beer manufacturers will likely introduce 22 ounce containers into the state to compete with the microbrews for retailer shelf space and market share.
- ▶ Passage of this legislation may result in the establishment of an increased number of specialty retailer businesses.
- ▶ It has been suggested that passage of this bill will result in increased costs for product inventory, storage, shipment, and promotional activities for beer wholesalers.
- ▶ Most foreign breweries utilize metric size containers. It is reported that many foreign breweries do not market their product in Florida because of the expense of adding additional bottle sizes to accommodate Florida's restrictions.
- ▶ According to representatives of some beer distributors, however, only metric containers are permitted in some foreign markets. In those foreign markets, American breweries must face the decision of converting from U. S. weights and measures to metric or not entering the market. Passage of this legislation would, therefore, extend a benefit to foreign brewed beers which may not be reciprocal.

D. FISCAL COMMENTS:

None.

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.

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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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Some opponents of this legislation argue that the introduction of larger size beer containers may encourage over-consumption.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Staff Director:

Janet Clark Morris

Paul Liepshutz