

STORAGE NAME: h0981s1.rs

DATE: March 22, 2000

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

BILL #: CS/HB 981

RELATING TO: Motorsports Entertainment Complex Act/Contracts

SPONSOR(S): Committee on Regulated Services, Representative Johnson & Others

TIED BILL(S):

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

- (1) TOURISM YEAS 7 NAYS 0
 - (2) REGULATED SERVICES YEAS 8 NAYS 1
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The CS/HB Bill 981 has two primary components.

First, the bill amends Chapter 549, F.S., which deals with automobile race meets, to provide a definition for a motorsports entertainment complex. Daytona International Speedway would meet the criteria established in the new definition and Homestead/Miami is expected to meet the criteria in the near future.

Second, the bill establishes criteria for the state to use in determining if a motorsports entertainment complex is permitted to receive advertising money or other promotional assistance from certain entities licensed under Florida's Beverage Law.

This bill also regulates how contracts for promotional considerations are entered into between a motorsports entertainment complex and an alcoholic beverage manufacturer. This bill allows the owner of such a complex to enter into promotional contracts with beer, wine, or liquor manufacturers and charge for such promotions as long as Florida licensed wholesale distributors are not directly or indirectly participating in the payment of fees. An exception was created for certain contracts in existence prior to October 1, 2000.

This bill has no fiscal impact on state revenue collections or expenditures.

The act will take effect October 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:

Chapter 549, F.S., governs automobile race meets, including issues relating to meet notice, duties and compensation of sheriffs, and penalties for failure of a person to remove himself or herself from an automobile racecourse. Section 549.08, F.S., the "Municipal Motor Vehicle Racing Act of 1984," governs "racing events," which are defined as motor vehicle races which are sanctioned by a nationally or internationally recognized racing organization. The term includes the preparations, practices, and qualifications for the race. Section 549.09, F.S., provides for a motorsport nonspectator liability release.

Chapters 561 through 565, 567, and 568, F.S., are defined as Florida's "Beverage Law" in s. 561.01(6), F.S. These chapters provide for the regulation of the alcoholic beverage industry in the state. The Beverage Law is a hierarchical three-tier distribution system in which licenses are issued to private producers or their agents, distributors, and retailers. The state maintains control over this industry through the approval of the issuance of licenses as well as the oversight of the business practices of licensees.

This three-tiered licensing and distribution system ensures separation between the groups of licensees and establishes an effective regulatory and tax collection system. Section 561.14, F.S., sets forth license classifications and also specifies to whom each class of license may sell alcoholic beverages. This statute specifies that licensed manufacturers may distribute at wholesale to licensed distributors only; that licensed distributors may sell and distribute at wholesale only to persons who are licensed to sell alcoholic beverages; and that licensed vendors may sell at retail only.

Section 561.22, F.S., specifically prohibits the dual licensure of an applicant as both a manufacturer of alcoholic beverages and as a retail vendor of alcoholic beverages. Further, this section prohibits the issuance of a vendor's license or renewal to an applicant if the individual, copartnership, or corporation is interested or connected, directly or indirectly, with any corporation which is engaged, directly or indirectly, or through any subsidiary or affiliate corporation, including any stock ownership, in manufacturing, distributing, or exporting alcoholic beverages. There are limitations on stock ownership owned individually (not exceeding 0.5 percent) or in a blind or revocable trust (less than 0.5 percent) for an individual who is an applicant for a vendor's license.

Complimenting s. 561.22, F.S., Florida's "tied house evil" law, s. 561.42, F.S., prohibits a licensed manufacturer or distributor of alcoholic beverages from having any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law. Further, a licensed manufacturer or distributor is prohibited from assisting any vendor by any gift or loan of money or property of any kind whatsoever.

The International Speedway Corporation (ISC) is the owner/operator of the motorsports entertainment complexes in both Daytona Beach and Homestead. A wholly owned subsidiary of ISC, Americrown, is the concessionaire at the Daytona complex (and will be the concessionaire in Homestead) and is licensed by the Department of Business and Professional Regulation as a retail vendor of alcoholic beverages. Because of this affiliation, ISC is also considered a retail vendor for purposes of the Beverage Law and, as such, is not allowed to receive promotional advertising money from beer, wine, or liquor manufacturers or distributors.

A major brewery, Anheuser Busch, sponsors the annual Bud ShootOut, a nationally advertised motorsports event at the ISC Speedway in Daytona. In the past, in order for ISC to receive advertising or other promotional assistance from that beer manufacturer, it was necessary for the vendor, Americrown, to temporarily place its beverage license in escrow during the Bud ShootOut weekend.

C. EFFECT OF PROPOSED CHANGES:

The bill creates s. 549.10, F.S., the "Motorsports Entertainment Complex Act." The section defines the terms "motorsports entertainment complex," "motorsports event," "owner," and "sanctioning body." A motorsports entertainment complex is defined as a closed-course racing facility and ancillary grounds and facilities which:

- Has not less than 70,000 fixed seats for race patrons;
- Has not less than seven scheduled days of motorsports events each calendar year;
- Has not fewer than four motorsports races each calendar year;
- Serves food and beverages at the facility during sanctioned motor races;
- Utilizes non-profit civic or charitable organizations, who must materially benefit from their participation, to staff a majority of its food and beverage sales outlets;
- Engages in tourism promotion; and,
- Has on the property permanent exhibitions of motorsports history, events, or vehicles.

Currently, the only motorsports entertainment complex meeting these requirements is the Daytona International Speedway; however, the Homestead/Miami Speedway expects to meet these requirements by October 2000.

This bill specifies the conditions under which the owner of a motorsports entertainment complex may enter into a promotional contract, including a contract which may require the payment of fees, with certain entities licensed under Florida's Beverage Law which otherwise would have been precluded under the provisions of the tied-house evil laws.

For example, the owner of Daytona Speedway is not a licensed alcoholic beverages retail vendor; however, the Speedway's concessionaire, a wholly owned subsidiary of the Speedway, is a licensed alcoholic beverages retail vendor. Under existing law, such an affiliation prohibits the owner of the Speedway from receiving any financial benefit from an alcoholic beverage manufacturer. This bill clarifies that such an affiliation will not cause the owner to be in noncompliance with the Beverage Law, if, (1) the owner does NOT obligate or require the licensed vendors operating at the complex to purchase or sell any particular

brand of alcoholic beverage in the public areas; or (2) a beer distributor does NOT directly or indirectly participate in or contribute to any advertising or promotional funds used to pay the owner of the complex.

The bill further specifies that the owner of the facility may not be licensed as an alcoholic beverage retailer but must meet the qualifications for licensure provided in s. 561.15, Florida Statutes.

The owner is specifically prohibited from contracting with beer and wine distributors (unless those distributors are also licensed as manufacturers), and liquor distributors, manufacturers, brokers, sales agents, and importers. The prohibition relating to liquor distributors, manufacturers, brokers, sales agents, and importers does not apply to any contract or to the renewal or extension of any contract in effect prior to October 1, 2000.

The bill will have no fiscal impact on state revenues and will take effect October 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 549.10, F.S., known as the Motorsports Entertainment Complex Act. The section defines the terms "motorsports entertainment complex," "motorsports event," "owner," and "sanctioning body." A motorsports entertainment complex is defined as a closed-course racing facility and ancillary grounds and facilities which:

- Has not less than 70,000 fixed seats for race patrons;
- Has not less than seven scheduled days of motorsports events each calendar year;
- Has not fewer than four motorsports races each calendar year;
- Serves food and beverages at the facility during sanctioned motor races;
- Utilizes non-profit civic or charitable organizations, who must materially benefit from their participation, to staff a majority of its food and beverage sales outlets;
- Engages in tourism promotion; and,
- Has on the property permanent exhibitions of motorsports history, events, or vehicles.

Subsection (3)(a) provides that the owner of a motorsports entertainment complex may enter into a promotional contract, including a contract which may require the payment of fees, with certain entities licensed under Florida's Beverage Law. The owner, however, is specifically prohibited from contracting with beer and wine distributors (unless those distributors are also licensed as manufacturers), and liquor distributors, manufacturers, brokers, sales agents, and importers. However, the prohibition relating to liquor distributors, manufacturers, brokers, sales agents, and importers does not apply to any contract or to the renewal or extension of any contract in effect prior to October 1, 2000.

This subsection also specifies that the owner of the facility may not be a licensed alcoholic beverage retailer but must meet the qualifications for licensure provided in s. 561.15, F.S.

Subsection (3)(b) states that the owner of a motorsports entertainment complex is not considered a vendor under s. 561.14, F.S., by reason of its affiliation with, or being a shareholder of, or sharing in percentage payments with any vendor at the complex, unless:

- (1) The owner of a motorsports entertainment complex obligates or requires the licensed vendor operating at motorsports entertainment complex to purchase or sell any particular brand of beverage, as defined in s. 561.01, F.S., in areas that are accessible to the general public. Areas accessible to the general public shall not

include any restricted access areas which are under lease, license, or occupancy contract with the owner.

(2) A person licensed under s. 563.02(3), F.S., with knowledge of the owner, is directly or indirectly participating in or contributing to any advertising or promotional funds being used to pay fees to the owner of the motorsports entertainment complex.

Section 2. Provides for an October 1, 2000 effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that this bill facilitates the ability of the owners of motorsports entertainment complexes to enter into promotional activities with alcoholic beverage licensees, those owners may benefit. Alcoholic beverage manufacturers may also benefit due to the increased exposure of their products through advertisements associated with the motorsports event.

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 expend funds or take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities 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:

This bill is a stand alone bill which does not relate to the issues contained in HB 823 by Representative Sorenson; however, the criteria for defining a motorsports entertainment complex is similar in both HB 823 and CS/HB 981.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Tourism

HB 981 was heard in the Tourism Committee on March 7, 2000, where it was favorably reported with two amendments. The first amendment by Representative Lynn conformed the House Bill to the Senate companion measure. The amendment provided that in order to enter into certain promotional contracts, the motorsports entertainment owner cannot be licensed as a vendor under Chapter 561, F.S., and must meet the qualifications specified in s. 561.15, F.S. The second amendment by Representative Lynn changed the type of seating requirement for a complex from "permanent" (e.g., concrete stadium seating) to "fixed" seating (e.g., movable type bleacher seating).

Committee on Regulated Services

The Committee on Regulated Services met on March 21, 2000, to consider this legislation. One amendment to the definition of a "motorsport entertainment complex" was adopted. The amendment requires a complex to utilize non-profit civic and charitable organizations to staff a majority of the food and beverage outlets at the complex during sanctioned events. Further, the amendment specified that the non-profit civic and charitable organizations must materially benefit from their participation. Following adoption of this amendment, a motion was made to pass the bill as a committee substitute, incorporating the Regulated Services and Tourism Committee's amendments into the bill. The bill passed the committee on a vote of 8 Yeas and 1 Nay.

STORAGE NAME: h0981s1.rs

DATE: March 22, 2000

PAGE 7

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique H. Cheek

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON REGULATED SERVICES:

Prepared by:

Janet Clark Morris

Staff Director:

Paul Liepshutz