

**STORAGE NAME:** h 981

**DATE:** March 7, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TOURISM  
ANALYSIS**

**BILL #:** HB 981

**RELATING TO:** Motorsports Entertainment Complex Act/Contracts

**SPONSOR(S):** Johnson

**TIED BILL(S):**

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

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

**I. SUMMARY:**

House Bill 981 amends Chapter 549, F.S., which deals with automobile race meets, to establish criteria for the state to use in determining if a motorsports entertainment complex, like Daytona International Speedway and Homestead/Miami Speedway, is permitted to receive advertising money from certain entities licensed under Florida's Beverage Law. Currently, the Daytona International Speedway and Homestead/Miami Speedway are each considered a "vendor"/"retailer."

The bill defines a motorsports entertainment complex and sets forth the criteria to be used by the state to determine if such an entity is a "vendor"/"retailer" and thereby regulated by the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco. If it is regulated in this manner, it cannot accept advertising money from an alcohol manufacturer and still run a race which is sponsored by that particular alcohol manufacturer. The bill defines the point at which a race track operator is going to be considered a "vendor"/"retailer" under the beverage law.

Also, the bill addresses whether the owner/operator of a motorsports entertainment complex can enter into promotional contracts, which may require the payment of fees, with a licensed beer, wine, or liquor manufacturer. Specifically, the bill allows the owner/operator of such complexes to enter into promotional contracts with beer, wine, or liquor beverage manufacturers and charge for such promotions as long as Florida licensed wholesale distributors are not directly or indirectly participating in the payment of fees.

The bill regulates how contracts for promotional considerations are entered into between the complex and an alcoholic beverage manufacturer. The bill provides that the complex will NOT be treated as a "vendor"/"retailer" of alcohol beverages if, (1) the complex 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) the person licensed under s. 563.02(3), F.S., does NOT directly or indirectly participate in or contribute to any advertising or promotional funds used to pay the owner of the complex.

At both Daytona and Homestead/Miami Speedways, the licensed vendor of alcohol beverages is affiliated to the owner/operator of the complex. If the owner/operator of the motorsports entertainment complex refrains from the above two actions, the owner/operator will be allowed to receive advertising money from alcohol manufacturers while the affiliated concessionaire, which is the vendor of alcohol beverages, continues to hold the retail beverage license.

This bill has no fiscal impact.

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:

A. 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 business licensing system in which licenses are sold to private producers or their agents, distributors, and retailers. The state maintains control over this industry through the approval of the sale of licenses as well as the oversight of the business practices of licensees.

This three-tiered system ensures separation between the groups of licensees. Section 561.14, F.S., requires that licenced manufacturers distribute at wholesale to licensed distributors only; that licensed distributors sell and distribute at wholesale only to persons who are licensed to sell alcoholic beverages; and that licensed vendors sell at retail only.

Section 561.22, F.S., also prohibits the licensure of an applicant as both a manufacturer of alcoholic beverages and as a retail vendor of alcoholic beverages. Further, the 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.

Florida's tied house 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 a business of any vendor licensed under the Beverage Law. Additionally, a licensed manufacturer or distributor is prohibited from assisting any vendor by any gift or loan of money or property of any kind whatsoever.

Under Chapter 561, F.S., "vendor"/"retailers" are not allowed to receive promotional advertising money from beer, wine, or liquor manufacturers. The International Speedway Corporation (ISC) is the owner/operator of the motorsports entertainment complexes in both Daytona Beach and Homestead. A subsidiary of ISC, Americrown, is the licensed concessionaire in Daytona and is to be the licensed concessionaire in Homestead. Presently, in order to fully comply with the law, Americrown places its beverage license in escrow during the BudshootOut weekend which is held in Daytona. Therefore, since current law considers the owner/operator of both of these complexes the "vendor"/"retailer," the owner/operator is not allowed to receive promotional advertising money from beer, wine, or liquor manufacturers.

**B. 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 permanent seats for race patrons;
- Has not less than 7 scheduled days of motorsports events each calendar year;
- Has not fewer than four motorsports races each calendar year;
- Serves food at the facility during sanctioned motor races;
- 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.

The bill also 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.

The bill also provides that the owner of a motorsports entertainment complex is not considered a vendor under s. 561.01, 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.

Therefore, the bill establishes conditions under which an owner of a motorsports entertainment complex may enter into promotional contracts, including contracts which may require the payment of fees, with certain entities licensed under the Florida Beverage Law. For owners who are also licensed vendors of alcoholic beverages, this bill has the effect of exempting them from the tied house evil law requirements which prohibit a beer, wine, or liquor manufacturer or distributor from having any financial interest in a vendor.

### C. 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 permanent seats for race patrons;
- Has not less than 7 scheduled days of motorsports events each calendar year;
- Has not fewer than four motorsports races each calendar year;
- Serves food at the facility during sanctioned motor races;
- 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.

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 motor sports 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.

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.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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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 the same in both HB 823 and HB 981.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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).

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Staff Director:

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Monique H. Cheek

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Judy C. McDonald