

By Representative Dockery

1                                   A bill to be entitled  
2           An act relating to the Beverage Law; creating  
3           s. 561.548, F.S.; authorizing direct shipment  
4           of wine from outside the state to certain  
5           charitable organizations for fundraising  
6           purposes; exempting such wine from the excise  
7           tax on wine; amending s. 562.15, F.S.;  
8           authorizing possession of not more than 24  
9           bottles of wine purchased outside the state and  
10          brought, shipped, or caused to be shipped into  
11          the state by the possessor, under certain  
12          circumstances; amending s. 561.545, F.S., which  
13          prohibits certain shipments of beverages, to  
14          conform; providing an effective date.

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

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18           Section 1. Section 561.548, Florida Statutes, is  
19          created to read:

20                   561.548 Direct shipment of wine.--Notwithstanding any  
21 other provision of the Beverage Law to the contrary, any  
22 charitable organization may receive wine directly from an  
23 out-of-state shipper for purposes of fundraising if all  
24 proceeds and profits are deposited with the organization. Any  
25 such wine shall be exempt from the excise tax provisions of s.  
26 564.06. Any bottles of wine that are not sold at the  
27 fundraising event must be returned to the out-of-state  
28 shipper. For purposes of this section, "charitable  
29 organization" means an organization that holds a current tax  
30 exemption from federal income tax under s. 501(c)(3) of the  
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1 Internal Revenue Code, as amended, and that is exempt from the  
2 sales and use taxes imposed by chapter 212.

3 Section 2. Section 562.15, Florida Statutes, is  
4 amended to read:

5 562.15 Unlawful possession; unpaid taxes;  
6 exemptions.--It is unlawful for any person to own or possess  
7 within this state any alcoholic beverage, unless full  
8 compliance has been had with the pertinent provisions of the  
9 Beverage Law as to payment of excise taxes on beverages of  
10 like alcohol content. However, this section shall not apply:

11 (1) To manufacturers or distributors licensed under  
12 the Beverage Law, to state bonded warehouses, or to common  
13 carriers. ~~or~~

14 (2) To persons possessing not in excess of 1 gallon of  
15 such beverages if the beverage shall have been purchased by  
16 said possessor outside of the state in accordance with the  
17 laws of the place where purchased and shall have been brought  
18 into this state by said possessor. The burden of proof that  
19 such beverages were purchased outside the state and in  
20 accordance with the laws of the place where purchased shall in  
21 all cases be upon the possessor of such beverages.

22 (3) To persons possessing not in excess of 24 bottles  
23 of wine, as defined by s. 564.01, if the wine has been  
24 purchased by the possessor outside of the state in accordance  
25 with the laws of the place where purchased and has been  
26 brought, shipped, or caused to be shipped into this state by  
27 the possessor. The burden of proof that such beverages were  
28 purchased outside the state and in accordance with the laws of  
29 the place where purchased shall in all cases be upon the  
30 possessor of such beverages.

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1           Section 3. Subsection (5) of section 561.545, Florida  
2 Statutes, is amended to read:

3           561.545 Certain shipments of beverages prohibited;  
4 penalties; exceptions.--The Legislature finds that the direct  
5 shipment of alcoholic beverages by persons in the business of  
6 selling alcoholic beverages to residents of this state in  
7 violation of the Beverage Law poses a serious threat to the  
8 public health, safety, and welfare; to state revenue  
9 collections; and to the economy of the state. The Legislature  
10 further finds that the penalties for illegal direct shipment  
11 of alcoholic beverages to residents of this state should be  
12 made adequate to ensure compliance with the Beverage Law and  
13 that the measures provided for in this section are fully  
14 consistent with the powers conferred upon the state by the  
15 Twenty-first Amendment to the United States Constitution.

16           (1) Any person in the business of selling alcoholic  
17 beverages who knowingly and intentionally ships, or causes to  
18 be shipped, any alcoholic beverage from an out-of-state  
19 location directly to any person in this state who does not  
20 hold a valid manufacturer's or wholesaler's license or  
21 exporter's registration issued by the Division of Alcoholic  
22 Beverages and Tobacco or who is not a state-bonded warehouse  
23 is in violation of this section.

24           (2) Any common carrier or permit carrier or any  
25 operator of a privately owned car, truck, bus, or other  
26 conveyance who knowingly and intentionally transports any  
27 alcoholic beverage from an out-of-state location directly to  
28 any person in this state who does not hold a valid  
29 manufacturer's or wholesaler's license or exporter's  
30 registration or who is not a state-bonded warehouse is in  
31 violation of this section.

1           (3) Any person found by the division to be in  
2 violation of subsection (1) shall be issued a notice, by  
3 certified mail, to show cause why a cease and desist order  
4 should not be issued. Any person who violates subsection (1)  
5 within 2 years after receiving a cease and desist order or  
6 within 2 years after a prior conviction for violating  
7 subsection (1) commits a felony of the third degree,  
8 punishable as provided in s. 775.082, s. 775.083, or s.  
9 775.084.

10           (4) Any common carrier or permit carrier, or any  
11 operator of a privately owned car, truck, bus, or other  
12 conveyance found by the division to be in violation of  
13 subsection (2) as a result of a second or subsequent delivery  
14 from the same source and location, within a 2-year period  
15 after the first delivery shall be issued a notice, by  
16 certified mail, to show cause why a cease and desist order  
17 should not be issued. Any person who violates subsection (2)  
18 within 2 years after receiving the cease and desist order or  
19 within 2 years after a prior conviction for violating  
20 subsection (2) commits a felony of the third degree,  
21 punishable as provided in s. 775.082, s. 775.083, or s.  
22 775.084.

23           (5) This section does not apply to the direct shipment  
24 of sacramental alcoholic beverages to bona fide religious  
25 organizations as authorized by the division, to direct  
26 shipment of wine to a charitable organization as authorized by  
27 s. 561.548, or to possession of alcoholic beverages in  
28 accordance with s. 562.15(2) or (3).

29           Section 4. This act shall take effect upon becoming a  
30 law.

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HOUSE SUMMARY

Authorizes direct shipment of wine from outside the state to certain charitable organizations for fundraising purposes, and exempts such wine from excise tax. Authorizes possession of not more than 24 bottles of wine purchased outside the state and brought, shipped, or caused to be shipped into the state by the possessor, under certain circumstances.