

By Senator Campbell

33-1537-02

1 A bill to be entitled
2 An act relating to alcoholic beverage taxes;
3 transferring powers, duties, and functions of
4 the Division of Alcoholic Beverages and Tobacco
5 of the Department of Business and Professional
6 Regulation relating to collection of taxes
7 under the Beverage Law to the Department of
8 Revenue; amending ss. 20.165, 561.025, 561.051,
9 561.111, 561.181, 561.19, 561.221, 561.50,
10 561.501, 561.55, 562.16, 562.25, 563.07,
11 564.06, 565.02, 565.13, F.S., to conform;
12 providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:
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16 Section 1. All powers, duties, and functions of the
17 Division of Alcoholic Beverages and Tobacco of the Department
18 of Business and Professional Regulation relating to the
19 collection of taxes under the Beverage Law, chapters 561
20 through 565, 567, and 568, Florida Statutes, are transferred
21 by a type two transfer, as defined in section 20.06, Florida
22 Statutes, to the Department of Revenue.

23 Section 2. Paragraph (a) of subsection (9) of section
24 20.165, Florida Statutes, is amended to read:

25 20.165 Department of Business and Professional
26 Regulation.--There is created a Department of Business and
27 Professional Regulation.

28 (9)(a) All employees authorized by the Division of
29 Alcoholic Beverages and Tobacco shall have access to, and
30 shall have the right to inspect, premises licensed by the
31 division, ~~to collect taxes and remit them to the officers~~

1 ~~entitled to them~~, and to examine the books and records of all
2 licensees. The authorized employees shall require of each
3 licensee strict compliance with the laws of this state
4 relating to the transaction of such business.

5 Section 3. Section 561.025, Florida Statutes, is
6 amended to read:

7 561.025 Alcoholic Beverage and Tobacco Trust
8 Fund.--There is created within the State Treasury the
9 Alcoholic Beverage and Tobacco Trust Fund. All funds collected
10 by the division under ~~s. ss.~~ 210.15, s. 210.40, or ~~under~~ s.
11 569.003, and all funds collected by the Department of Revenue
12 under the Beverage Law with the exception of state funds
13 collected pursuant to ss. 561.501, 563.05, 564.06, and 565.12,
14 shall be deposited in the State Treasury to the credit of the
15 trust fund, notwithstanding any other provision of law to the
16 contrary. Moneys deposited to the credit of the trust fund
17 shall be used to operate the division and to provide a
18 proportionate share of the operation of the office of the
19 secretary and the Division of Administration of the Department
20 of Business and Professional Regulation; except that:

21 (1) The revenue transfer provisions of ss. 561.32 and
22 561.342(1) and (2) shall continue in full force and effect,
23 and the division shall cause such revenue to be returned to
24 the municipality or county in the manner provided for in s.
25 561.32 or s. 561.342(1) and (2); and

26 (2) Ten percent of the revenues derived from retail
27 tobacco products dealer permit fees collected under s. 569.003
28 shall be transferred to the Department of Education to provide
29 for teacher training and for research and evaluation to reduce
30 and prevent the use of tobacco products by children.

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1 Section 4. Section 561.051, Florida Statutes, is
2 amended to read:

3 561.051 Reporting requirements ~~of director~~.--The
4 Department of Revenue ~~director of the division~~ shall promptly
5 report and remit to the Treasurer all taxes and fees it
6 collects under the Beverage Law ~~collected by him or her~~
7 ~~hereunder~~ and shall send copies of the reports to the
8 Comptroller.

9 Section 5. Section 561.111, Florida Statutes, is
10 amended to read:

11 561.111 Payment of taxes by electronic funds
12 transfer.--The Secretary of Business and Professional
13 Regulation may require a person who manufactures or
14 distributes alcoholic beverages within the state to remit to
15 the Department of Revenue by electronic funds transfer any tax
16 imposed under chapter 563, chapter 564, or chapter 565 if the
17 taxpayer is subject to tax and if the total of such taxes he
18 or she paid in the prior year amounted to \$50,000 or more.

19 Section 6. Subsection (3) of section 561.181, Florida
20 Statutes, is amended to read:

21 561.181 Temporary initial licenses.--

22 (3) Each applicant seeking a temporary initial license
23 shall pay to the Department of Revenue ~~division~~ for such
24 license a fee equal to one-fourth of the annual license fee
25 for the type and series of license being applied for or \$100,
26 whichever is greater, which fee shall be deposited into the
27 General Revenue Fund.

28 Section 7. Subsections (1) and (6) of section 561.19,
29 Florida Statutes, are amended to read:

30 561.19 License issuance upon approval of division.--

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1 (1) Upon the completion of the investigation of an
2 application, the division shall approve or disapprove the
3 application. If approved, the license shall be issued upon
4 payment to the Department of Revenue ~~division~~ of the license
5 tax hereinafter provided.

6 (6) The state license tax shall be collected by the
7 Department of Revenue ~~division~~, and that department ~~the~~
8 ~~division~~ shall return the county and municipal share pursuant
9 to s. 561.342 to the appropriate county and municipality
10 monthly on or before the 10th day of the month succeeding the
11 beginning of the taxable year and quarterly thereafter.

12 Section 8. Paragraph (b) of subsection (3) of section
13 561.221, Florida Statutes, is amended to read:

14 561.221 Licensing of manufacturers and distributors as
15 vendors and of vendors as manufacturers; conditions and
16 limitations.--

17 (3)

18 (b) Any vendor which is also licensed as a
19 manufacturer of malt beverages pursuant to this subsection
20 shall be responsible for applicable reports pursuant to ss.
21 561.50 and 561.55 with respect to the amount of beverage
22 manufactured each month and shall pay applicable excise taxes
23 thereon to the Department of Revenue ~~division~~ by the 10th day
24 of each month for the previous month.

25 Section 9. Subsection (1) of section 561.50, Florida
26 Statutes, is amended to read:

27 561.50 One state tax payment; reports.--

28 (1) There shall be only one state tax paid as to each
29 gallon or fraction thereof of beverage sold under the Beverage
30 Law, and no other excise tax shall be levied directly or
31 indirectly. Such tax shall be computed from the reports,

1 books, and records of manufacturers and distributors; and the
2 amount so computed shall be remitted with the report required
3 by s. 561.55 to the Department of Revenue ~~division~~ at
4 intervals of 1 month, on or before the 10th of each month, for
5 all beverages sold during the previous calendar month, and
6 such payment of tax shall accompany the report required by s.
7 561.55. If the monthly tax liability of a manufacturer or
8 distributor exceeds the amount of the bond furnished for
9 payment of taxes, the division, upon a finding based upon
10 substantial and competent evidence that the security of the
11 tax revenue involved is in jeopardy, may require a bond equal
12 to the anticipated tax liability of the manufacturer or
13 distributor. Additionally, the division may increase the
14 frequency of the remittance of the tax when the security of
15 the tax involved is in immediate jeopardy or the financial
16 condition of the manufacturer or distributor is unstable and
17 the potential tax liability exceeds the bond furnished under
18 the Beverage Law. In arriving at a conclusion that the
19 security of the tax revenue involved is in jeopardy, the
20 division shall consider and be guided by the prior history, if
21 any, of the compliance or noncompliance by the manufacturer or
22 distributor with beverage tax obligations; the transient or
23 nontransient nature of the manufacturer or distributorship;
24 the type of inventory, the equity of the manufacturer or
25 distributor therein, and the mobility of such inventory; the
26 financial status of the manufacturer or distributor; and the
27 anticipated tax obligation of the manufacturer or distributor.

28 Section 10. Subsections (2) and (5) of section
29 561.501, Florida Statutes, are amended to read:

30 561.501 Surcharge on sale of alcoholic beverages for
31 consumption on the premises; penalty.--

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

24 (5) All penalties and interest imposed by this section
25 are payable to and collectible by the Department of Revenue
26 ~~division~~ in the same manner as if they were a part of the tax
27 imposed. The division may settle or compromise any such
28 interest or penalty under paragraph (3)(a).

29 Section 11. Subsection (2) of section 561.55, Florida
30 Statutes, is amended to read:

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1 561.55 Manufacturers', distributors', brokers', sales
2 agents', importers', vendors', and exporters' records and
3 reports.--

4 (2) Each manufacturer, distributor, broker, sales
5 agent, and importer shall make a full and complete report by
6 the 10th day of each month for the previous calendar month.
7 The report shall be made out in quadruplicate ~~triplicate~~; two
8 copies shall be sent to the division, one copy shall be sent
9 to the Department of Revenue,and the fourth ~~third~~ copy shall
10 be retained for the manufacturer's, distributor's, broker's,
11 sales agent's, or importer's record. Reports shall be made on
12 forms prepared and furnished by the division.

13 Section 12. Section 562.16, Florida Statutes, is
14 amended to read:

15 562.16 Possession of beverages upon which tax is
16 unpaid.--Any person or corporation who shall own or have in
17 her or his or its possession any beverage upon which a tax is
18 imposed by the Beverage Law, or which would be imposed if such
19 beverage were manufactured in or brought into this state in
20 accordance with the regulatory provisions of the Beverage Law,
21 and upon which such tax has not been paid shall, in addition
22 to the fines and penalties otherwise provided in the Beverage
23 Law, be personally liable for the amount of the tax imposed on
24 such beverage, and the Department of Revenue ~~division~~ may
25 collect such tax from such person by suit or otherwise;
26 provided, that this section shall not apply to manufacturers
27 or distributors licensed under the Beverage Law, to state
28 bonded warehouses or to common carriers; provided, further,
29 this section shall not apply to persons possessing not in
30 excess of 1 gallon of such beverages; provided, the beverage
31 shall have been purchased by said possessor outside of the

1 state in accordance with the laws of the place where purchased
2 and shall have been brought into this state by said possessor.
3 The burden of proof that such beverages were purchased outside
4 the state and in accordance with the laws of the place where
5 purchased in all cases shall be upon the possessor of such
6 beverages.

7 Section 13. Subsection (1) of section 562.25, Florida
8 Statutes, is amended to read:

9 562.25 State bonded warehouses.--

10 (1) No operator of any storage warehouse shall accept
11 for storage in such warehouse any alcoholic beverage subject
12 to tax under the Beverage Law until such operator shall have
13 obtained from the division a permit to store such beverage and
14 shall have filed a bond payable to the division, conditioned
15 upon the full compliance by such operator with the provisions
16 of this section. This section shall not apply to a federal
17 bonded warehouse owned wholly by, and operated solely for, a
18 manufacturer or distributor licensed under the Beverage Law.
19 Such permit shall issue upon the payment of \$1 to the
20 Department of Revenue ~~division~~, and may be refused, suspended,
21 or revoked in the same manner and upon the same grounds that
22 the license of a distributor may be refused, suspended, or
23 revoked. Such bond shall be in an amount of not more than
24 \$5,000 nor less than \$1,000, in the discretion of the
25 division, with a surety company licensed to do business in the
26 state as surety.

27 Section 14. Section 563.07, Florida Statutes, is
28 amended to read:

29 563.07 Beer distributors' collection credit.--For the
30 purpose of allowing credit to licensed distributors of malt
31 beverages or beer for keeping prescribed records, furnishing

1 bond, and properly accounting for and remitting taxes due to
2 the state, such licensed distributors shall be allowed 2.5
3 percent of the amount of the tax due, accounted for, and
4 remitted to the Department of Revenue ~~division~~, in the form of
5 a deduction from such remittance. However, no allowance may
6 be granted or permitted when the tax is delinquent at the time
7 of payment.

8 Section 15. Subsection (7) of section 564.06, Florida
9 Statutes, is amended to read:

10 564.06 Excise taxes on wines and beverages.--

11 (7) Every distributor selling wine within the state
12 shall pay the tax to the Department of Revenue ~~division~~
13 monthly on or before the 10th day of the following month, less
14 1.9 percent of the tax due, which shall be withheld by the
15 distributor for keeping prescribed records, furnishing bond,
16 and properly accounting for and remitting taxes due to the
17 state. However, no allowance shall be granted or permitted
18 when the tax is delinquent at the time of payment.

19 Section 16. Subsections (2), (3), and (9) of section
20 565.02, Florida Statutes, are amended to read:

21 565.02 License fees; vendors; clubs; caterers; and
22 others.--

23 (2) Any operator of railroads or sleeping cars in this
24 state may obtain a license to sell the beverages mentioned in
25 the Beverage Law on passenger trains upon the payment of an
26 annual license tax of \$2,500, the tax to be paid to the
27 Department of Revenue ~~division~~. Such license shall authorize
28 the holder thereof to keep for sale and sell all beverages
29 mentioned in the Beverage Law upon any dining, club, parlor,
30 buffet, or observation car operated by it in this state, but
31 such beverages may be sold only to passengers upon the cars

1 and must be served for consumption thereon. It is unlawful
2 for such licensees to purchase or sell any liquor except in
3 miniature bottles of not more than 2 ounces. Every such
4 license shall be good throughout the state. No license shall
5 be required, or tax levied by any municipality or county, for
6 the privilege of selling such beverages for consumption in
7 such cars. Such beverages shall be sold only on cars in which
8 are posted certified copies of the licenses issued to such
9 operator. Such certified copies of such licenses shall be
10 issued by the division upon the payment of a tax of \$10.

11 (3)(a) Operators of steamships and steamship lines,
12 buses and bus lines, or airplanes and airlines engaged in
13 interstate or foreign commerce or plying between fixed
14 terminals and upon fixed schedules in this state may obtain
15 licenses to sell the beverages mentioned in the Beverage Law:

16 1. On steamships, buses, and airplanes operated by
17 such operators, upon the payment of an annual license tax of
18 \$1,100; and

19 2. In no more than one passenger waiting lounge
20 licensed by the division and operated by an airline licensed
21 herein at each of its terminals in the state for ticketed
22 passengers whose flights are scheduled to depart within 24
23 hours of service and guests in the company of such
24 ticketholders, provided such licensed airline has first
25 obtained an appropriate space lease or permit providing for
26 payment of nondiscriminatory rental and concession fees and
27 upon the payment of an additional license tax of \$1,100 per
28 lounge.

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30 All such license taxes shall be paid to the Department of
31 Revenue ~~division~~. Such licenses shall authorize the holders

1 | thereof to keep for sale and sell all beverages mentioned in
2 | the Beverage Law upon any steamship, bus, or airplane or in
3 | any such airline passenger waiting lounge operated by such
4 | operators in this state, but such beverages may be sold only
5 | to passengers upon such steamships, buses, and airplanes and
6 | to ticketed passengers and their guests in such airline
7 | passenger waiting lounges and may be served only for
8 | consumption on such steamships, buses, and airplanes or in
9 | such airline passenger waiting lounges. It is unlawful for
10 | such licensees to purchase for resale any liquor except in
11 | miniature bottles of not more than 2 ounces or liquor in
12 | individual containers of not less than one-fifth of 1 gallon.
13 | Such sales are permitted while such steamships, buses, and
14 | airplanes are in transit; but such sales are not permitted on
15 | airplanes while such airplanes are in airports. Every such
16 | license shall be good throughout the state. No license may be
17 | required or tax levied by any municipality or county for the
18 | privilege of selling such beverages for consumption on such
19 | steamships, buses, or airplanes or in such airline passenger
20 | waiting lounges. The division shall issue a license to sell
21 | alcoholic beverages on steamships, buses, and airplanes to an
22 | operator of a steamship line, bus line, or airline, at a
23 | central location designated on the sworn application for
24 | license. The application for initial issuance of such a
25 | license must specify the number of steamships, buses, or
26 | airplanes in the fleet scheduled by the operator of the line
27 | for operation in this state. An application for renewal of
28 | such a license must specify the total number of steamships,
29 | buses, or airplanes in the fleet that operated in this state
30 | during the preceding license year. In addition to the annual
31 | license tax imposed under this subsection, a tax of \$25 is

1 imposed for each steamship, bus, or airplane which is
2 disclosed on the application for license or renewal of
3 license. Upon the payment of all applicable license taxes,
4 each such steamship, bus, or airplane is considered a licensed
5 premises under the Beverage Law. However, this paragraph does
6 not apply to operators of pleasure, excursion, sightseeing, or
7 charter boats not having regular round-trip runs of more than
8 100 miles in each direction; but operators of such boats may
9 obtain licenses, with such boats being designated as their
10 places of business, upon compliance with all the laws relating
11 to vendors operating places of business where consumption on
12 the premises is permitted. However, the operator of any
13 pleasure, excursion, sightseeing, or charter boat which has a
14 Coast Guard-approved capacity of at least 125 passengers may
15 be granted a special liquor license to sell and serve
16 alcoholic beverages to passengers during a period of no longer
17 than 1 hour prior to departure on a scheduled or chartered
18 cruise while the boat is docked at a docking facility or
19 marina and the period during which the boat is in operation on
20 the scheduled or chartered cruise for consumption on the
21 premises only. The fee for such special license shall be the
22 same as that charged pursuant to paragraphs (1)(b)-(f) based
23 on the location of the home port of the boat. Also, no license
24 to sell the beverages herein defined shall be issued to the
25 operator of any boat which plies upon or is anchored upon the
26 waters of any lake within this state.

27 (b) Operators of railroads, sleeping cars, steamships,
28 buses, and airplanes licensed under this section shall not be
29 required to obtain their beverages from licensees under the
30 Beverage Law, but such operators shall keep strict accounts of
31 all such beverages sold within this state and shall make

1 monthly reports to the division on the forms prepared and
2 furnished by the division. Such operators are required to pay
3 an excise tax for such beverages sold within this state as to
4 which such excise tax has not theretofore been paid, equal to
5 the tax assessed against manufacturers and distributors. Such
6 operators shall pay such tax monthly to the Department of
7 Revenue ~~division~~ at the same time they furnish the reports
8 hereinabove provided for. Such reports shall be filed on or
9 before the 15th day of each month for sales for the previous
10 calendar month.

11 (9) It is the finding of the Legislature that
12 passenger vessels engaged exclusively in foreign commerce are
13 susceptible to a distinct and separate classification for
14 purposes of the sale of alcoholic beverages under the Beverage
15 Law. Upon the filing of an application and payment of an
16 annual fee of \$1,100, the director is authorized to issue a
17 permit authorizing the operator, or, if applicable, his or her
18 concessionaire, of a passenger vessel which has cabin-berth
19 capacity for at least 75 passengers, and which is engaged
20 exclusively in foreign commerce, to sell alcoholic beverages
21 on the vessel for consumption on board only:

22 (a) During a period not in excess of 24 hours prior to
23 departure while the vessel is moored at a dock or wharf in a
24 port of this state; or

25 (b) At any time while the vessel is located in Florida
26 territorial waters and is in transit to or from international
27 waters.

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29 One such permit shall be required for each such vessel and
30 shall name the vessel for which it is issued. No license
31 shall be required or tax levied by any municipality or county

1 for the privilege of selling beverages for consumption on
2 board such vessels. The beverages so sold may be purchased
3 outside the state by the permittee, and the same shall not be
4 considered as imported for the purposes of s. 561.14(3) solely
5 because of such sale. The permittee is not required to obtain
6 its beverages from licensees under the Beverage Law, but it
7 shall keep a strict account of all such beverages sold within
8 this state and shall make monthly reports to the division on
9 forms prepared and furnished by the division. A permittee who
10 sells on board the vessel beverages withdrawn from United
11 States Customs Service bonded storage on board the vessel may
12 satisfy such accounting requirement by supplying the division
13 with copies of the appropriate United States Customs Service
14 forms evidencing such withdrawals as importations under United
15 States customs laws. Such permittee shall pay to the state an
16 excise tax for beverages sold pursuant to this section, if
17 such excise tax has not previously been paid, in an amount
18 equal to the tax which would be required to be paid on such
19 sales by a licensed manufacturer or distributor. A vendor
20 holding such permit shall pay the tax monthly to the
21 Department of Revenue ~~division~~ at the same time he or she
22 furnishes the required report. Such report shall be filed on
23 or before the 15th day of each month for the sales occurring
24 during the previous calendar month.

25 Section 17. Section 565.13, Florida Statutes, is
26 amended to read:

27 565.13 Monthly payment of tax by distributor.--Every
28 distributor selling spirituous beverages within the state
29 shall pay the tax to the Department of Revenue ~~division~~
30 monthly on or before the 10th day of the following month, less
31 1.0 percent of the tax due, which shall be withheld by the

1 distributor for keeping prescribed records, furnishing bond,
2 and properly accounting for and remitting taxes due to the
3 state. However, no allowance may be granted or permitted when
4 the tax is delinquent at the time of payment.

5 Section 18. This act shall take effect July 1, 2003.

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8 SENATE SUMMARY

9 Transfers responsibility for collecting beverage taxes
10 from the Division of Alcoholic Beverages and Tobacco to
the Department of Revenue.

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