

By Senator Fasano

11-283-03

1 A bill to be entitled
2 An act relating to alcoholic beverage licenses;
3 amending s. 561.15, F.S.; prohibiting the
4 issuance of a license under the Beverage Law to
5 anyone who has ever been convicted or whose
6 employee has ever been convicted, or to a
7 corporation of which an officer or employee has
8 ever been convicted, of certain enumerated
9 offenses; adding to the list of such offenses;
10 providing for suspension of a license during
11 legal proceedings; providing for license
12 revocation or reinstatement, in accordance with
13 the outcome of the proceedings; repealing
14 provisions allowing a corporation to obtain or
15 retain a beverage license despite having been
16 convicted of a specified offense; reenacting
17 ss. 549.10(2), 561.01(14), 561.181(2),
18 561.331(3), 561.68(2), 564.045(2), 565.095(2),
19 F.S., relating to motorsports entertainment
20 complex contracts, definitions of terms used in
21 the Beverage Law, temporary initial licenses,
22 temporary license upon application for
23 transfer, change of location or change of type
24 or series, licensure of distributors'
25 salespersons, and licensure as a primary
26 American source of supply, to incorporate the
27 amendment to s. 561.15, F.S., in references
28 thereto; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Section 561.15, Florida Statutes, is
2 amended to read:

3 561.15 Licenses; qualifications required.--

4 (1) Licenses shall be issued only to persons of good
5 moral character who are not less than 21 years of age.
6 Licenses to corporations shall be issued only to corporations
7 whose officers are of good moral character and not less than
8 21 years of age. There shall be no exemptions from the license
9 taxes herein provided to any person, association of persons,
10 or corporation, any law to the contrary notwithstanding.

11 (2) A ~~No~~ license under the Beverage Law may not ~~shall~~
12 be issued to:

13 (a) Any person who has ever been convicted; ~~within the~~
14 ~~last past 5 years~~

15 1. Of any offense against the beverage laws of this
16 state, the United States, or any other state; ~~who has been~~
17 ~~convicted within the last past 5 years~~

18 2. In this state or any other state or the United
19 States of soliciting for prostitution, pandering, letting
20 premises for prostitution, or keeping a disorderly place or of
21 any criminal violation of chapter 893 or the controlled
22 substance act of any other state or the Federal Government;

23 3. Of an unnatural and lascivious act under s. 800.02;

24 4. Of exposure of sexual organs under s. 800.03; ~~or~~
25 ~~who has been convicted in the last past 15 years~~

26 5. Of any felony in this state or any other state or
27 the United States;

28 (b) A person any of whose employees in the business
29 requiring a beverage license has ever been so convicted; ~~or to~~

30 (c) A corporation, any of the officers or employees of
31 which ~~shall~~ have been so convicted.

1
2 The term "conviction" includes ~~shall include~~ an adjudication
3 of guilt on a plea of guilty or nolo contendere or the
4 forfeiture of a bond when charged with a crime.

5 (3)(a) The division shall immediately suspend the
6 license of any person who has been charged with one of the
7 offenses enumerated in subsection (2) or of any corporation
8 any of the officers of which have been charged with one of the
9 offenses enumerated in subsection (2).

10 (b) A suspension imposed under paragraph (a) remains
11 in effect until the legal proceeding has been resolved. If the
12 legal proceeding results in a conviction of the licenseholder
13 or the corporate licenseholder's employee, the division shall
14 revoke the license. If the legal proceeding results in an
15 acquittal, the division shall immediately reinstate the
16 license.

17 (4)(3) The division may suspend or revoke the license
18 under the Beverage Law of, or may refuse to issue a license
19 under the Beverage Law to:

20 (a) Any person, firm, or corporation the license of
21 which under the Beverage Law has been revoked or has been
22 abandoned after written notice that revocation or suspension
23 proceedings had been or would be brought against the license;

24 (b) Any corporation if an officer, director, or person
25 interested directly or indirectly in the corporation has had
26 her or his license under the Beverage Law revoked or has
27 abandoned her or his license after written notice that
28 revocation or suspension proceedings had been or would be
29 brought against her or his license; or

30 (c) Any person who is or has been an officer of a
31 corporation, or who was interested directly or indirectly in a

1 corporation, the license of which has been revoked or
2 abandoned after written notice that revocation or suspension
3 proceedings had been or would be brought against the license.
4
5 Any license issued to a person, firm, or corporation that
6 would not qualify for the issuance of a new license or the
7 transfer of an existing license may be revoked by the
8 division. However, any company regularly traded on a national
9 securities exchange and not over the counter; any insurer, as
10 defined in the Florida Insurance Code; or any bank or savings
11 and loan association chartered by this state, another state,
12 or the United States which has an interest, directly or
13 indirectly, in an alcoholic beverage license shall not be
14 required to obtain division approval of its officers,
15 directors, or stockholders or any change of such positions or
16 interests. Any such company, insurer, bank, or savings and
17 loan association which has a direct or indirect interest or
18 which has an ownership interest in the business sought to be
19 licensed, but which does not operate that business, may elect
20 to place the license solely in the name of the operator. The
21 operator's license application shall list the direct,
22 indirect, or ownership interest and the names of the officers,
23 directors, stockholders, or partners of such company, insurer,
24 bank, or association. A shopping center with five or more
25 stores, one or more of which has an alcoholic beverage license
26 and is required under a lease common to all shopping center
27 tenants to pay no more than 10 percent of the gross proceeds
28 of the business holding the license to the shopping center,
29 shall not be considered as having an interest, directly or
30 indirectly, in the license.
31

1 ~~(4) If a corporation is unable to qualify for or~~
2 ~~continue to hold an alcoholic beverage license because the~~
3 ~~corporation has been convicted of a felony and the felony~~
4 ~~conviction is unrelated to any offense against the beverage~~
5 ~~laws of this state, any other state, or the United States,~~
6 ~~such conviction will not constitute an absolute bar to the~~
7 ~~issuance, renewal, or transfer of an alcoholic beverage~~
8 ~~license to the corporation, or to the continued holding of an~~
9 ~~alcoholic beverage license by the corporation, if the~~
10 ~~corporation can demonstrate to the satisfaction of the~~
11 ~~division, in a public hearing under ss. 120.569 and 120.57,~~
12 ~~that the corporation has terminated its relationship with any~~
13 ~~director, officer, employee, or controlling shareholder whose~~
14 ~~actions directly contributed to the conviction of the~~
15 ~~corporation. If a corporation is unable to qualify for or~~
16 ~~continue to hold an alcoholic beverage license because an~~
17 ~~officer of the corporation has been convicted of an offense~~
18 ~~enumerated in subsection (2), such conviction will not~~
19 ~~constitute an absolute bar to the issuance, renewal, or~~
20 ~~transfer of a license to the corporation, or to the continued~~
21 ~~holding of an alcoholic beverage license by the corporation,~~
22 ~~if the corporation can demonstrate to the satisfaction of the~~
23 ~~division that the corporation has terminated its relationship~~
24 ~~with the officer so convicted. If any corporation has received~~
25 ~~a full pardon or restoration of civil rights pursuant to state~~
26 ~~law with respect to any conviction of a violation of law, the~~
27 ~~conviction does not constitute an absolute bar to the~~
28 ~~issuance, renewal, or transfer of a license or grounds for~~
29 ~~revocation or suspension of a license. The division shall~~
30 ~~annually report to the offices of the President of the Senate~~
31

1 ~~and the Speaker of the House of Representatives all agency~~
2 ~~actions taken pursuant to the provisions of this subsection.~~

3 Section 2. For the purpose of incorporating the
4 amendment to section 561.15, Florida Statutes, in references
5 thereto, subsection (2) of section 549.10, Florida Statutes,
6 is reenacted to read:

7 549.10 Motorsports entertainment complex; contracts.--

8 (2)(a) Notwithstanding any other law to the contrary,
9 the owner of a motorsports entertainment complex who is not
10 licensed as a vendor under chapter 561 and who meets the
11 qualifications specified in s. 561.15 may enter into a
12 promotional contract, including a contract with any other
13 person which may require the payment of fees, except:

14 1. A person licensed under s. 563.02(3), unless that
15 person is also licensed as a manufacturer;

16 2. A person licensed under s. 564.02(3)(a) unless that
17 person is also licensed as a manufacturer; or

18 3. A person licensed under s. 565.03. However, this
19 exception does not apply to any contract or to the renewal or
20 extension of any contract in effect before October 1, 2000.

21 (b) The owner of a motorsports entertainment complex
22 is not considered a vendor under s. 561.14 merely because it
23 is affiliated with, a shareholder of, or sharing in percentage
24 payments with any vendor licensed under that section at the
25 complex and meets the qualifications specified in s. 561.15
26 unless:

27 1. The owner of the motorsports entertainment complex
28 obligates or requires the licensed vendors operating at the
29 motorsports entertainment complex to purchase or sell any
30 particular brands of beverages defined in s. 561.01 in areas
31 that are accessible to the public. Areas accessible to the

1 public do not include any restricted access areas that are
2 under lease, license, or occupancy contracts with the owner.

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

8 Section 3. For the purpose of incorporating the
9 amendment to section 561.15, Florida Statutes, in references
10 thereto, subsection (14) of section 561.01, Florida Statutes,
11 is reenacted to read:

12 561.01 Definitions.--As used in the Beverage Law:

13 (14) "Licensee" means a legal or business entity,
14 person, or persons that hold a license issued by the division
15 and meet the qualifications set forth in s. 561.15.

16 Section 4. For the purpose of incorporating the
17 amendment to section 561.15, Florida Statutes, in references
18 thereto, subsection (2) of section 561.181, Florida Statutes,
19 is reenacted to read:

20 561.181 Temporary initial licenses.--

21 (2) A temporary initial license shall expire and shall
22 not be continued or extended beyond the date the division
23 denies the application for license, beyond 14 days after the
24 date the division approves the application for license, or
25 beyond the date the applicant pays the license fee for and the
26 division issues the license applied for, whichever date occurs
27 first. If the department issues a notice of intent to deny the
28 license application for failure of the applicant to disclose
29 the information required by s. 561.15(2) or (4), the initial
30 temporary license expires and shall not be extended during any
31

1 proceeding for administrative or judicial review pursuant to
2 chapter 120.

3 Section 5. For the purpose of incorporating the
4 amendment to section 561.15, Florida Statutes, in references
5 thereto, subsection (3) of section 561.331, Florida Statutes,
6 is reenacted to read:

7 561.331 Temporary license upon application for
8 transfer, change of location, or change of type or series.--

9 (3) Upon the filing of a properly completed
10 application to change the type or series of a beverage license
11 by any qualified licensee having a beverage license of any
12 type or series, which application does not on its face
13 disclose any reason for denying an alcoholic beverage license,
14 the licensee is entitled as a matter of right to receive a
15 temporary beverage license of the type or series applied for,
16 which temporary license is valid for all purposes under the
17 Beverage Law until the application is denied or until 14 days
18 after the application is approved. Such temporary license
19 shall be issued by the district supervisor of the district in
20 which the application for change of type or series is made. If
21 the department issues a notice of intent to deny the license
22 application for failure of the applicant to disclose the
23 information required by s. 561.15(2) or (4), the temporary
24 license for transfer, change of location, or change of type of
25 series expires and shall not be extended during any proceeding
26 for administrative or judicial review pursuant to chapter 120.
27 If the fee for the type or series or license applied for is
28 greater than the fee for the license then held by the
29 applicant, the applicant for such temporary license must pay a
30 fee in the amount of \$100 or one-fourth of the difference
31 between the fees, whichever amount is greater. A fee is not

1 required for an application for a temporary license of a type
2 or series for which the fee is the same as or less than the
3 fee for the license then held by the applicant. The holder of
4 a temporary license under this subsection is subject to the
5 same rights, privileges, duties, and limitations of a beverage
6 licensee as are provided by law.

7 Section 6. For the purpose of incorporating the
8 amendment to section 561.15, Florida Statutes, in references
9 thereto, subsection (2) of section 561.68, Florida Statutes,
10 is reenacted to read:

11 561.68 Licensure; distributor's salespersons.--

12 (2) After the application has been filed, the district
13 supervisor shall cause the application to be fully
14 investigated. Upon the completion of the investigation the
15 division shall approve or disapprove the application. If
16 approved the license shall be issued. Licenses shall be
17 issued only to persons meeting the qualifications of s. 561.15
18 and any other requirements of the Beverage Law. Upon
19 issuance, the salesperson's license shall be valid and remain
20 in effect unless the salesperson has a break in employment.
21 If a licensee salesperson has a break in employment longer
22 than 90 days during which time the salesperson is not employed
23 by any Florida distributor, the salesperson must obtain a new
24 salesperson's license by complying with the requirements for
25 original issuance.

26 Section 7. For the purpose of incorporating the
27 amendment to section 561.15, Florida Statutes, in references
28 thereto, subsection (2) of section 564.045, Florida Statutes,
29 is reenacted to read:

30 564.045 Licensure as primary American source of
31 supply.--

1 (2) TAX CONTROL LICENSURE REQUIRED.--For purposes of
2 tax revenue control, no person, firm, corporation, or other
3 entity which is the primary American source of supply as
4 defined herein may sell, offer for sale, accept orders for
5 sale, ship, or cause to be shipped into this state any vinous
6 beverages to any distributor or importer within the state
7 without having first obtained licensure as a primary American
8 source of supply on forms provided by, and in such manner as
9 prescribed by, the division. Applicants for licensure as a
10 primary American source of supply shall be exempt from the
11 requirements and qualification standards set forth in ss.
12 561.15 and 561.17.

13 Section 8. For the purpose of incorporating the
14 amendment to section 561.15, Florida Statutes, in references
15 thereto, subsection (2) of section 565.095, Florida Statutes,
16 is reenacted to read:

17 565.095 Licensure as primary American source of
18 supply.--

19 (2) TAX CONTROL LICENSURE REQUIRED.--For purposes of
20 tax revenue control, no person, firm, corporation, or other
21 entity which is the primary American source of supply as
22 defined herein may sell, offer for sale, accept orders for
23 sale, ship, or cause to be shipped into this state any
24 spirituous liquors to any distributor or importer within the
25 state without having first obtained licensure as a primary
26 American source of supply on forms provided by, and in such
27 manner as prescribed by, the division. Applicants for
28 licensure as a primary American source of supply shall be
29 exempt from the requirements and qualification standards set
30 forth in ss. 561.15 and 561.17.

31 Section 9. This act shall take effect July 1, 2003.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Prohibits issuing a license under the Beverage Law to anyone who has ever been convicted or has an employee who has ever been convicted, or to a corporation of which an officer or employee has ever been convicted, of certain enumerated offenses. Adds violations of the prohibition against certain unnatural and lascivious acts and exposure of sexual organs to the list of such offenses. Provides that the beverage license of a person charged with such an offense must be suspended during the legal proceedings. Provides that the license must be revoked if the person is convicted or must be reinstated immediately if the person is acquitted. Repeals provisions allowing a corporation to obtain or regain a beverage license despite having been convicted of a specified offense.