

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 665 Beverage Law; transfer of quota licenses
SPONSOR(S): Representative Garcia
TIED BILLS: **IDEN./SIM. BILLS:** SB 1692

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Trades, Professions & Reg. Business [Sub]	7 Y, 0 N	Morris	Liepshutz
2) Business Regulation			
3) Finance and Tax			
4)			
5)			

SUMMARY ANALYSIS

The Beverage Law imposes significant transfer fees on the transfer of quota liquor licenses within three years of initial issuance. The Beverage Law also allows the Division of Alcoholic Beverages and Tobacco to waive the transfer fees when a license transfer occurs by operation of law because of a death, judicial proceeding, court appointment of fiduciary, foreclosure or forced judicial sale, bankruptcy proceeding, or a seizure of a license by a government agency.

This bill prohibits the waiver of transfer fees when a quota license is transferred within three years of initial issuance.

The bill will have a positive, but indeterminate, impact on state revenue collections.

The bill provides that the act will take effect upon becoming a law.

[One amendment was adopted by the Subcommittee and is traveling with the bill. See IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES for an explanation of the amendment.]

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0665a.br.doc
DATE: March 26, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Chapters 561-565 and 567 and 568, Florida Statutes, comprise Florida's Beverage Law. The Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages. The sale of alcoholic beverages is generally considered to be a privilege and as such, licensees are held to a high standard of accountability. The Division of Alcoholic Beverages and Tobacco [division], Department of Business and Professional Regulation is the state agency given responsibility for enforcement of the Beverage Law.

The Beverage Law requires the division to conduct background investigations on potential licensees and requires that licensees meet prescribed standards of moral character. Further, the Beverage Law prohibits certain business practices and relationships. Alcoholic beverage licenses are subject to fine, suspension and/or revocation for violations of the Beverage Law.

Florida's retail alcoholic beverage licensing system is generally built around the quota license structure with all other retail licenses that allow the sale of liquor enacted as exceptions to the quota limitation. Unlike retail beer and wine licenses, s. 561.20(1), Florida Statutes, provides for a quota or limitation on the number of liquor licenses which may be issued in a county based on population: one license for each 7,500 residents. Quota limitations were initially enacted in the interest of promoting temperance by limiting the number of retail outlets and, therefore, the availability of alcoholic beverages. A quota liquor license allows the sale of all legal alcoholic beverages, beer, wine and liquor, regardless of alcoholic content. Quota licenses also allow the sale of alcoholic beverages by the package as well as by the drink.

To assure impartiality in granting these liquor licenses, the law provides for a double random lottery drawing procedure to establish the order of selection to apply for a license. Since there is limited availability, quota licenses often sell on the private market for thousands of dollars. Bars/nightclubs and liquor package stores typically operate under the authority of a quota license; whereas, restaurants typically operate under a special restaurant license [SRX license] which is an exception to the quota license law.

Section 561.32(3)(a), F.S., assesses a transfer fee on the average annual value of gross sales of alcoholic beverages for the three years immediately preceding the transfer of a quota license and levied at the rate of four mills, except that the transfer fee may not exceed \$5,000. In addition to that transfer fee, if a quota license is transferred within three years of initial issuance, an additional transfer fee in an amount equal to 15 times the annual license fee is assessed.

Section 561.32(5), F.S., allows the division to waive transfer fees when a license transfer occurs by operation of law because of a death, judicial proceeding, court appointment of fiduciary, foreclosure or forced judicial sale, bankruptcy proceeding, or a seizure of a license by a government agency.

This bill prohibits the waiver of transfer fees for transfers made within the 3-year period set forth in subsection (4). Therefore, under the provisions of this bill, a transfer fee equal to 15 times the annual license fee will be assessed on any transfer of a quota license occurring by operation of law within the 3-year period from initial issuance.

C. SECTION DIRECTORY:

Section 1. Amends s. 561.32(5), F.S., to prohibit the waiver of certain transfer fees.

Section 2. Provides that the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill would have a positive, but indeterminate, impact on state revenue collections.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide any additional rule-making authority to the division.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Trades, Professions and Regulated Business adopted one amendment that was offered by Representative Garcia. The bill prohibits the waiver of transfer fees when the transfer of an alcoholic beverage license occurs by operation of law because of a death, judicial proceedings, court appointment of a fiduciary, foreclosure or forced judicial sale, bankruptcy proceedings, or a seizure of the license by a government agency. The amendment prohibits the waiver of transfer fees when the transfer occurs due to a foreclosure or forced judicial sale and allows the waiver of transfer fees under the other circumstances.