

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2060

SPONSOR: Regulated Industries Committee and Senator Smith

SUBJECT: Non-Quota Alcoholic Beverage License

DATE: April 13, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides for an alcoholic beverage license for a sporting and recreational complex that has at least 10,000 acres of land, indoor sleeping facility with at least 12 rooms, a restaurant that seats at least 25 persons, and has been in continuous existence for at least two years. The license would be granted upon the payment of appropriate fees, and would not be subject to any quota or limitation.

The bill provides that the enclosed area of the complex must be considered the licensed premises, and that the entity would be treated as a vendor licensed to sell alcoholic beverages by the drink.

The bill requires that the licensed complex shall only sell and or serve alcoholic beverages in a manner consistent with any local ordinance of a governing body having jurisdiction over the location of the complex. It provides rulemaking authority for the Division of Alcoholic Beverages and Tobacco governing the designation process, criteria for qualification, and all other rules necessary for the effective enforcement and administration of the provisions of this bill.

This bill would take effect on July 1, 2004.

This bill substantially amends section 565.02, Florida Statutes.

II. Present Situation:

The Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (department) is the agency authorized to enforce the provisions of the Beverage Law in chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

Section 561.20, F.S., limits the number of licenses under s. 565.02(1)(b)-(f), F.S., that may be issued in a county to no more than one such license to each 7,500 residents within such county. Section 561.20(1), F.S., provides that regardless of the number of licenses issued before October 1, 2000, no license issued under s. 565.02(1)(a)-(f), F.S., shall be issued so that the number of such licenses within a county exceeds one such license to each 7,500 residents within the county.

These limited alcoholic beverage licenses are known as quota licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverages licenses are available without limitation. Applications for quota licenses can exceed the number of available licenses.

The number of residents is based upon the Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida based on the last population estimate prepared pursuant to s. 186.901, F.S.¹ For 2003, there were 42 available licenses based on the increases in population.²

The Beverage Law provides for several other types of beverage licenses, including consumption off premises only, consumption on the premises of beer only and beer and wine only. Motels, hotels, restaurants, boats, clubs, and other locations have the ability to serve alcoholic beverages under certain license restrictions.³

License fees.

Section 565.02(1), F.S., sets forth the license fees for vendors who are permitted to sell any alcoholic beverages regardless of alcohol content. These licenses permit the sale for consumption on premises of beer, wine and liquor. Section 565.02(1)(b)-(f), F.S., establishes license fees for consumption on premises licenses that are based on the population of the county. These fees range from \$1,820 for a license in a county with a population of more than 100,000 to \$624 for a license in a county with a population of 25,000 or less.

Section 565.02(1)(g), F.S., establishes a fee in addition to the fees established in s. 565.02(1)(b)-(f), F.S., for any vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises.

¹ Section 186.901, F.S., provides that the population estimate of local governmental units shall be submitted annually to the Executive Office of the Governor as of April 1 of each year.

² These licenses were available in 30 counties. The most that were available were four in Hillsborough and Palm Beach Counties. Three were available in Dade County. Applications were accepted from August 18, 2003, through November 15, 2003.

See http://www.myflorida.com/dbpr/abt/licensing/quota_notice.shtml

³ See http://www.state.fl.us/dbpr/abt/rules_statutes/license_types.pdf

Section 565.02(4), F.S., establishes an annual license tax of \$400 for persons associated together as a chartered or incorporated club. This subsection also provides a \$50 fee to permit gulf clubs to sell to non-members for a limited eight consecutive days for one event a year.

Section 565.02, F.S., also provides license fees for other entities, including chartered horse or dog racetracks or jai alai frontons,⁴ theme park complexes,⁵ non-profit entities that manage or support a symphony orchestra,⁶

In addition to these fees, s. 561.19, F.S., provides a fee of \$10,750 for each new liquor license that is issued subject to the limitation in s. 561.20(1), F.S.

III. Effect of Proposed Changes:

Section 1. The bill creates section 565.02(12), F.S., to provide that a sporting and recreational complex may obtain a license for on-premises consumption of alcoholic beverage licenses. The license would be granted upon the payment of appropriate fees, and would not be subject to any quota or limitation if the complex:

- comprises of at least 10 acres of land;
- has indoor sleeping facilities with at least 12 rooms;
- has a restaurant that seats at least 25 persons; and
- has been in continuous existence for at least two years.

The bill provides that the enclosed area of the complex must be considered the licensed premises, and that the entity would be treated as a vendor licensed to sell alcoholic beverages by the drink. The bill does not define the term “enclosed area.” It is not clear whether the term “enclosed area” is limited to the buildings of the complex or whether the term encompasses the fenced, or otherwise enclosed, outdoor parameters of the complex.

The bill requires that the licensed complex shall only sell and or serve alcoholic beverages in a manner consistent with any local ordinance of a governing body having jurisdiction over the location of the complex. It provides rulemaking authority for the Division of Alcoholic Beverages and Tobacco governing the designation process, criteria for qualification, and all other rules necessary for the effective enforcement and administration of the provisions of this bill.

This bill would establish a new license classification for a sporting and recreational complex alcoholic beverage license. The bill amends s. 565.02, F.S., which establishes licensure fees for several alcoholic beverage license classification. However, the bill does not set the fee, it only refers to the payment of an “appropriate fee” for on premises consumption of alcoholic beverages. The appropriate fee may be one of the license fees set forth in s. 565.02(1), F.S., that are based upon the population of the county.

⁴ 565.02(5), F.S.

⁵ 565.02(6), F.S.

⁶ 565.02(8), F.S.

According to the department, the number of locations that could qualify for this license is indeterminate. However, the department estimates that this bill would provide a maximum of five additional licensees.

Section 2. This bill would take effect on July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An applicant for a license authorized by this bill would have to pay the appropriate fee, which range from \$1,820 for a license in a county with a population of more than 100,000 to \$625 for a license in a county with a population of 25,000 or less.

C. Government Sector Impact:

According to the department this bill would have a minimal fiscal impact. Based on its estimate of no more than five additional licensees and utilizing the median fee, the department estimates that the additional licenses would generate \$6,500 in additional revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
