

# 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.)

Prepared By: Regulated Industries Committee

BILL: SB 2676

SPONSOR: Senator Crist

SUBJECT: Hillsborough County

DATE: April 19, 2005      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Fav/1 amendment</b>
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see last section for Summary of Amendments**

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

This bill authorizes the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Arts Council of Hillsborough County (Arts Council) for use on the premises of the Tampa Theatre during special events.

The bill would permit the Arts Council to sell alcoholic beverages for consumption within the theatre. The bill would also permit the purchasers to leave the theater with the alcoholic beverages in open containers and partially consumed containers. However, the Arts Council may not sell alcoholic beverages in sealed containers for consumption outside the building.

The bill authorizes the Arts Council to transfer the license to a qualified applicant that is under contract with the Arts Council to provide food services at the theatre. The license reverts to the Arts Council upon termination of the authorization or contract.

This bill creates unnumbered sections of the 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.

### Quota alcoholic beverage licenses

Section 561.20, F.S., limits the number of licenses that permit the full service of alcoholic beverages regardless of alcohol content, including liquor, 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 such full service license 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.<sup>1</sup> For 2004, there were 54 available licenses based on the increases in population.<sup>2</sup>

The Beverage Law permits the transfer of existing licenses during the bona fide sale of a business, in a foreclosure action, or in probate.<sup>3</sup> Quota licenses may also become available upon the revocation of a licensee's interest in an existing license.<sup>4</sup>

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 all alcoholic beverages, including liquor, under certain license restrictions.<sup>5</sup>

### License fees

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<sup>1</sup> 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.

<sup>2</sup> These licenses were available in 25 counties. The most that were available were five in Miami-Dade County. Four were available in Duval, Broward, Orange, and Palm Beach Counties. Three were available in Hillsborough, Lee, Osceola, and Polk Counties. Two were available in Brevard, Leon, Collier, Marion, and Pasco Counties. One quota license was available in Alachua, Charlotte, Clay, Flagler, Manatee, Pinellas, St. Johns, St. Lucie, Sarasota, Seminole, and Volusia. Applications were accepted from August 16, 2004, through November 13, 2004. *See* [http://www.myflorida.com/dbpr/abt/licensing/quota\\_notice.shtml](http://www.myflorida.com/dbpr/abt/licensing/quota_notice.shtml) (Last visited, April 14, 2005).

<sup>3</sup> *See* s. 561.32, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *See* s. 561.20, F.S.

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.<sup>6</sup> 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.

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.

### **The Tampa Theater**

According to proponents, the Tampa Theater is listed on the National Register of Historic Places. The Tampa Theater is managed by the Arts Council of Hillsborough County under contract with the City of Tampa. The theater's programs annually serve an average of 130,000 persons. It also serves over 37,000 school children from six counties through its education programs.

### **Special Act Licenses**

Several entities have been issued special alcoholic beverage licenses in recent years under the authority of a Special Act, including the following:

- The University Area Community Development Corporation in Hillsborough County;<sup>7</sup>
- Museum of Science and Industry in Hillsborough County;<sup>8</sup>
- Centro Asturiano in Hillsborough County;<sup>9</sup>
- Circulo Cubano de Tampa, Inc., in Hillsborough County;<sup>10</sup>
- The Tampa Museum of Art in Hillsborough County<sup>11</sup>; and
- Lowry Park Zoological Society in Hillsborough County.<sup>12</sup>

### **III. Effect of Proposed Changes:**

This bill authorizes the division to issue an alcoholic beverage license to the Arts Council of Hillsborough County (Arts Council) for use on the premises of the Tampa Theatre in accordance with s. 561.17, F.S.<sup>13</sup>

The bill requires the Arts Council to submit an application for licensure to the Division and pay the appropriate application fee as provided in s. 565.02, F.S.

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<sup>6</sup> Chapter 565, F.S., regulates the sale of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors.

<sup>7</sup> Chapter 2003-355, L.O.F.

<sup>8</sup> Chapter 98-449, L.O.F.

<sup>9</sup> Chapter 98-455, L.O.F.

<sup>10</sup> Chapter 98-452, L.O.F.

<sup>11</sup> Chapter 94-465, L.O.F., as amended by ch. 96-522, L.O.F.

<sup>12</sup> Chapter 94-464, L.O.F.

<sup>13</sup> Section 561.17, F.S., requires that any person before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, must file an application with the division. This section also prescribes the license application process.

The bill provides that the Arts Council to can use the license only for special events on the premises of the theatre. However, the bill does not define the term “special events.” The bill requires that the alcoholic beverages must sold for consumption on the premises and prohibits the sale of alcoholic beverages in sealed containers for consumption off the premises. However, the bill permits the purchaser of the alcoholic beverage to remove from the premises an opened, partially consumed container of alcoholic beverages, e.g., an opened bottle of beer or glass of wine.

The bill authorizes the Arts Council to transfer the license to a qualified applicant that is under contract with the Arts Council to provide food services at the theatre. The license would automatically revert by operation of law to the Arts Council upon termination of the transferee’s authority or contract.

The bill does not provide immunity from any applicable local ordinances or regulations regarding the possession of open containers of alcoholic beverages within a certain number of feet of a licensed vendor. It is not clear whether the bill may be construed to preempt such local ordinances.

#### **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:

None.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Notice of special or local legislation was published in the Tampa Record, a publication in Hillsborough County, as required by s. 10, Art. III, Florida Constitution, and s. 11.02, F.S. A copy of the certificate of publication is available at the office of the staff of the Senate Committee on Regulated Industries.

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

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## **VIII. Summary of Amendments:**

### **Barcode 130886 by Regulated Industries:**

This amendment replaces the term “the council may transfer” with the term “the license may be transferred.” This amendment would require that the Division of Alcoholic Beverages and Tobacco approve any transfer of the license from the Arts Council to a qualified applicant that is under contract with the Arts Council to provide food services at the theatre.

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