

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 968

SPONSOR: Senator Smith

SUBJECT: Alcoholic Beverage Licenses

DATE: April 13, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>GE</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides for an alcoholic beverage license for a sporting and recreational lodge 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 to administer the provisions of this bill.

This bill would take effect on July 1, 2005.

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.

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.¹ For 2004, there were 54 available licenses based on the increases in population.²

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

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.⁵

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.⁶ 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.

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 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 (Last visited, April 14, 2005).

³ *See* s. 561.32, F.S.

⁴ *Id.*

⁵ *See* s. 561.20, F.S.

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

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 of beer, wine and liquor 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.

These are two examples of the license fees established under this section:

- 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,⁷ theme park complexes,⁸ non-profit entities that manage or support a symphony orchestra,⁹

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 creates section 565.02(12), F.S., to provide that a sporting and recreational lodge 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

⁷ 565.02(5), F.S.

⁸ 565.02(6), F.S.

⁹ 565.02(8), F.S.

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.

Section 2 provides an effective date of July 1, 2005.

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:

According to proponents, at least one location in Gilchrist County could qualify for this license under the provisions of the bill. A qualifying location in Gilchrist County may benefit from the bill because that county had no new quota licenses issued for 2004.

C. Government Sector Impact:

Pursuant to s. 565.02(1)(b)-(f), F.S., which prescribes the fees for the sale of alcoholic beverages regardless of alcohol content, the department would collect license fees ranging from \$624 to \$1,820 for each qualifying applicant with the amount depended on the population of the county in which the sporting and recreational lodge complex is located.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the department, the only available license that would permit the full service of alcoholic beverages at the type of facility described in the bill is a quota license. There is no other type of specialty license that covers this type of business. The department also cannot identify any specific facilities or counties, other than the one location identified by the proponents of the bill, that would benefit from this type of license.

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

VIII. Summary of Amendments:

None.

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