

HB 317

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CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to stand-alone bars; amending s. 561.695,  
7 F.S.; providing a penalty for a licensed vendor who  
8 knowingly makes a false statement on an annual compliance  
9 affidavit; removing a requirement that licensed vendors  
10 file a procedures report regarding compliance with certain  
11 food service limitations; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Subsections (5) through (9) of section 561.695,  
16 Florida Statutes, are amended to read:

17 561.695 Stand-alone bar enforcement; qualification;  
18 penalties.--

19 (5) After the initial designation, to continue to qualify  
20 as a stand-alone bar the licensee must provide to the division  
21 annually, on or before the licensee's annual renewal date, an  
22 affidavit that certifies, with respect to the preceding 12-month  
23 period, the following:

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24 (a) No more than 10 percent of the gross revenue of the  
25 business is from the sale of food consumed on the licensed  
26 premises as defined in s. 386.203(11).

27 (b) Other than customary bar snacks as defined by rule of  
28 the division, the licensed vendor does not provide or serve food  
29 to a person on the licensed premises without requiring the  
30 person to pay a separately stated charge for food that  
31 reasonably approximates the retail value of the food.

32 (c) The licensed vendor conspicuously posts signs at each  
33 entrance to the establishment stating that smoking is permitted  
34 in the establishment.

35  
36 The division shall establish by rule the format of the affidavit  
37 required by this subsection. A licensed vendor shall not  
38 knowingly make a false statement on the affidavit required by  
39 this subsection. In addition to the penalties provided in  
40 subsection (7), a licensed vendor who knowingly makes a false  
41 statement on the affidavit required by this subsection may be  
42 subject to suspension or revocation of the vendor's alcoholic  
43 beverage license under s. 561.29.

44 ~~(6) Every third year after the initial designation, on or~~  
45 ~~before the licensee's annual license renewal, the licensed~~  
46 ~~vendor must additionally provide to the division an agreed upon~~  
47 ~~procedures report in a format established by rule of the~~  
48 ~~department from a Florida certified public accountant that~~  
49 ~~attests to the licensee's compliance with the percentage~~  
50 ~~requirement of s. 386.203(11) for the preceding 36-month period.~~  
51 ~~Such report shall be admissible in any proceeding pursuant to s.~~

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52 ~~120.57. This subsection does not apply to a stand alone bar if~~  
 53 ~~the only food provided by the business, or in any other way~~  
 54 ~~present or brought onto the premises for consumption by patrons,~~  
 55 ~~is limited to nonperishable snack food items commercially~~  
 56 ~~prepackaged off the premises of the stand alone bar and served~~  
 57 ~~without additions or preparation; except that a stand alone bar~~  
 58 ~~may pop popcorn for consumption on its premises, provided that~~  
 59 ~~the equipment used to pop the popcorn is not used to prepare any~~  
 60 ~~other food for patrons.~~

61 (6)~~(7)~~ The Division of Alcoholic Beverages and Tobacco  
 62 shall have the power to enforce the provisions of part II of  
 63 chapter 386 and to audit a licensed vendor that operates a  
 64 business that meets the definition of a stand-alone bar as  
 65 provided in s. 386.203(11) for compliance with this section.

66 (7)~~(8)~~ Any vendor that operates a business that meets the  
 67 definition of a stand-alone bar as provided in s. 386.203(11)  
 68 who violates the provisions of this section or part II of  
 69 chapter 386 shall be subject to the following penalties:

70 (a) For the first violation, the vendor shall be subject  
 71 to a warning or a fine of up to \$500, or both;

72 (b) For the second violation within 2 years after the  
 73 first violation, the vendor shall be subject to a fine of not  
 74 less than \$500 or more than \$2,000;

75 (c) For the third or subsequent violation within 2 years  
 76 after the first violation, the vendor shall receive a suspension  
 77 of the right to maintain a stand-alone bar in which tobacco  
 78 smoking is permitted, not to exceed 30 days, and shall be  
 79 subject to a fine of not less than \$500 or more than \$2,000; and

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80 (d) For the fourth or subsequent violation, the vendor  
81 shall receive a 60-day suspension of the right to maintain a  
82 stand-alone bar in which tobacco smoking is permitted and shall  
83 be subject to a fine of not less than \$500 or more than \$2,000  
84 or revocation of the right to maintain a stand-alone bar in  
85 which tobacco smoking is permitted.

86 (8)~~(9)~~ The division shall adopt rules governing the  
87 designation process, criteria for qualification, required  
88 recordkeeping, auditing, and all other rules necessary for the  
89 effective enforcement and administration of this section and  
90 part II of chapter 386. The division is authorized to adopt  
91 emergency rules pursuant to s. 120.54(4) to implement the  
92 provisions of this section.

93 Section 2. This act shall take effect upon becoming a law.