

ENROLLED
HB 317, Engrossed 1

2006 Legislature

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

9 Be It Enacted by the Legislature of the State of Florida:
10

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

13 561.695 Stand-alone bar enforcement; qualification;
14 penalties.--

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

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

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

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28 (c) The licensed vendor conspicuously posts signs at each
29 entrance to the establishment stating that smoking is permitted
30 in the establishment.

31
32 The division shall establish by rule the format of the affidavit
33 required by this subsection. A licensed vendor shall not
34 knowingly make a false statement on the affidavit required by
35 this subsection. In addition to the penalties provided in
36 subsection (7), a licensed vendor who knowingly makes a false
37 statement on the affidavit required by this subsection may be
38 subject to suspension or revocation of the vendor's alcoholic
39 beverage license under s. 561.29.

40 ~~(6) Every third year after the initial designation, on or~~
41 ~~before the licensee's annual license renewal, the licensed~~
42 ~~vendor must additionally provide to the division an agreed upon~~
43 ~~procedures report in a format established by rule of the~~
44 ~~department from a Florida certified public accountant that~~
45 ~~attests to the licensee's compliance with the percentage~~
46 ~~requirement of s. 386.203(11) for the preceding 36 month period.~~
47 ~~Such report shall be admissible in any proceeding pursuant to s.~~
48 ~~120.57. This subsection does not apply to a stand alone bar if~~
49 ~~the only food provided by the business, or in any other way~~
50 ~~present or brought onto the premises for consumption by patrons,~~
51 ~~is limited to nonperishable snack food items commercially~~
52 ~~prepackaged off the premises of the stand alone bar and served~~
53 ~~without additions or preparation, except that a stand alone bar~~
54 ~~may pop popcorn for consumption on its premises, provided that~~

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55 ~~the equipment used to pop the popcorn is not used to prepare any~~
56 ~~other food for patrons.~~

57 (6)~~(7)~~ The Division of Alcoholic Beverages and Tobacco
58 shall have the power to enforce the provisions of part II of
59 chapter 386 and to audit a licensed vendor that operates a
60 business that meets the definition of a stand-alone bar as
61 provided in s. 386.203(11) for compliance with this section.

62 (7)~~(8)~~ Any vendor that operates a business that meets the
63 definition of a stand-alone bar as provided in s. 386.203(11)
64 who violates the provisions of this section or part II of
65 chapter 386 shall be subject to the following penalties:

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

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

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

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

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82 | (8)~~(9)~~ The division shall adopt rules governing the
83 | designation process, criteria for qualification, required
84 | recordkeeping, auditing, and all other rules necessary for the
85 | effective enforcement and administration of this section and
86 | part II of chapter 386. The division is authorized to adopt
87 | emergency rules pursuant to s. 120.54(4) to implement the
88 | provisions of this section.

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