

By the Committee on Community Affairs; and Senator Haridopolos

578-2050-06

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A bill to be entitled

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

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

Section 1. Subsections (5), (6), (7), (8), and (9) of section 561.695, Florida Statutes, are amended to read:

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

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

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

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

1 (c) The licensed vendor conspicuously posts signs at
2 each entrance to the establishment stating that smoking is
3 permitted in the establishment.

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5 The division shall establish by rule the format of the
6 affidavit required by this subsection. A licensed vendor may
7 not knowingly make a false statement on the affidavit required
8 by this subsection. In addition to the penalties provided in
9 subsection (7), a licensed vendor who knowingly makes a false
10 statement on the affidavit required by this subsection may be
11 subject to suspension or revocation of the vendor's alcoholic
12 beverage license under s. 561.29.

13 ~~(6) Every third year after the initial designation, on~~
14 ~~or before the licensee's annual license renewal, the licensed~~
15 ~~vendor must additionally provide to the division an agreed~~
16 ~~upon procedures report in a format established by rule of the~~
17 ~~department from a Florida certified public accountant that~~
18 ~~attests to the licensee's compliance with the percentage~~
19 ~~requirement of s. 386.203(11) for the preceding 36 month~~
20 ~~period. Such report shall be admissible in any proceeding~~
21 ~~pursuant to s. 120.57. This subsection does not apply to a~~
22 ~~stand alone bar if the only food provided by the business, or~~
23 ~~in any other way present or brought onto the premises for~~
24 ~~consumption by patrons, is limited to nonperishable snack food~~
25 ~~items commercially prepackaged off the premises of the~~
26 ~~stand alone bar and served without additions or preparation;~~
27 ~~except that a stand alone bar may pop popcorn for consumption~~
28 ~~on its premises, provided that the equipment used to pop the~~
29 ~~popcorn is not used to prepare any other food for patrons.~~

30 ~~(6)(7)~~ The Division of Alcoholic Beverages and Tobacco
31 shall have the power to enforce the provisions of part II of

1 chapter 386 and to audit a licensed vendor that operates a
2 business that meets the definition of a stand-alone bar as
3 provided in s. 386.203(11) for compliance with this section.

4 ~~(7)(8)~~ Any vendor that operates a business that meets
5 the definition of a stand-alone bar as provided in s.
6 386.203(11) who violates the provisions of this section or
7 part II of chapter 386 shall be subject to the following
8 penalties:

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

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

14 (c) For the third or subsequent violation within 2
15 years after the first violation, the vendor shall receive a
16 suspension of the right to maintain a stand-alone bar in which
17 tobacco smoking is permitted, not to exceed 30 days, and shall
18 be subject to a fine of not less than \$500 or more than
19 \$2,000; and

20 (d) For the fourth or subsequent violation, the vendor
21 shall receive a 60-day suspension of the right to maintain a
22 stand-alone bar in which tobacco smoking is permitted and
23 shall be subject to a fine of not less than \$500 or more than
24 \$2,000 or revocation of the right to maintain a stand-alone
25 bar in which tobacco smoking is permitted.

26 ~~(8)(9)~~ The division shall adopt rules governing the
27 designation process, criteria for qualification, required
28 recordkeeping, auditing, and all other rules necessary for the
29 effective enforcement and administration of this section and
30 part II of chapter 386. The division is authorized to adopt
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1 emergency rules pursuant to s. 120.54(4) to implement the
2 provisions of this section.

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

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 600

9 The committee substitute allows for the suspension or
10 revocation of a vendor's alcoholic beverage license, in
11 addition to other penalties, if the vendor knowingly makes a
12 false statement on a required affidavit. Under existing law, a
13 vendor must certify in a required affidavit that during the
14 preceding 12-month period no more than 10 percent of sales are
15 derived from food; the vendor does not serve food, other than
16 customary bar snacks, without requiring a customer to pay a
17 separately-stated food charge; and a sign is conspicuously
18 posted at each entrance stating smoking is allowed in the
19 establishment.
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