

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The regulation of alcoholic beverages within the State of Florida is governed by federal, state and local laws. Florida's "Beverage Law" consists of chs. 561-565, 567 and 568, F.S., and requires a person to be licensed prior to engaging in the sale of alcoholic beverages. The Florida Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco is responsible for licensing the alcoholic beverage industry, for collecting and auditing taxes and fees paid by licensees, and for enforcing alcoholic beverage laws and regulations.

Although there is no limit on the number of licenses that may be issued to sell beer or wine, s. 561.20(1), F.S., restricts the number of liquor licenses issued in any county to one for each 7,500 residents based on the last regular population estimate prepared pursuant to s. 186.901, F.S., for each county. Licenses issued pursuant to this subsection are referred to as "quota" licenses.¹

Quota license taxes are based on a county's population and whether alcoholic beverages are consumed on the vendor's licensed premises or sold for consumption off-premises. The yearly cost ranges from \$624 in smaller counties to \$1,820 in counties with populations over 100,000.² These fees are deposited into the Alcoholic Beverages and Tobacco Trust Fund,³ with 24 percent of the amounts collected within a county returned to the appropriate tax collector, and 38 percent of the amounts collected within an incorporated municipality returned to the appropriate municipal officer.⁴

In addition to the annual license tax, there is an initial license fee of \$10,750. The revenues collected from this fee are deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund to be used for alcohol and drug abuse education, treatment and prevention programs.⁵

A quota license also may be purchased on the open market from a current owner. In addition to the purchase price, which usually is dictated by supply and demand and not prescribed by the state, a license transfer fee (not to exceed \$5000),⁶ must be paid.

¹ Quota limitations initially were enacted in the interest of promoting temperance by limiting the number of outlets and, therefore, the availability of alcoholic beverages. By restricting competition, quota limitations also enhance the value of existing liquor licenses. Florida's retail alcoholic beverage licensing system generally is built around the quota license structure with all other retail licenses which allow the sale of liquor enacted as exceptions to the quota limitation. Section 561.20, F.S., provides numerous exceptions.

² Section 565.02(1), F.S.

³ Section 561.025, F.S.

⁴ Section 561.342, F.S.

⁵ Section 561.19(5), F.S.

⁶ Section 561.32(3)(a), F.S.

Effect of Proposed Changes

HB 199 amends ch. 81-440, L.O.F., which limited the number of alcoholic beverage licenses that could be issued in Nassau County to one for every 4,000 residents. When this special act was passed in 1981, the general law allowed one alcoholic beverage license for every 2,500 residents. However, the general law has been amended over the years, and now allows one license per 7,500 residents. Thus, while the Nassau County law originally was more restrictive, it currently allows for the issuance of more licenses than the general law.

The bill provides a new limit of one such license for every 7,500 Nassau County residents, which is consistent with general law. (See, s. 561.20, F.S.)

C. SECTION DIRECTORY:

Section 1: Amends s. 1 of ch. 81-440, L.O.F.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 6, 2006

WHERE? The *Fernandina Beach News Leader*, a newspaper of general circulation published in Nassau County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The Economic Impact Statement indicates that no significant change in revenues is anticipated. As the bill will act to limit the future issuance of quota liquor licenses to one per 7,500 residents (rather than one per 4,000), it will decrease the number of quota licenses that may be issued in Nassau County.

The April 1, 2006, population estimate for Nassau County provided by the Bureau of Economic and Business Research at the University of Florida is 68,188. While the number of quota liquor licenses issued for the county was not available from the Department of Business and Professional Regulation, the population figure indicates that there are no more than 17 such licensees. With the current general law standard in effect, there will be no additional quota licenses issued until the county population reaches 127,500. Thus, the competition for existing licenses may be extremely high. Other costs associated with the bill, however, should be minimal based on the numbers involved.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Because the intent of the bill appears to be to tie the Nassau County issuance of quota licenses to the general law standard, the Sponsor of the bill may want to amend the bill to provide that these licenses are issued in accordance with such in order to eliminate the need for future amendments to the special act.

Other Comments

On August 23, 2006, the Board of County Commissioners of Nassau County passed Resolution No. 2006-123, thereby requesting the Nassau County Legislative Delegation to pass legislation which would make the county's local liquor license quota consistent with state law.

D. STATEMENT OF THE SPONSOR

On February 14, 2007, the sponsor advised ULA staff that no statement would be submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES