

By Senator King

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1 A bill to be entitled
2 An act relating to the Beverage Law; amending s. 561.01,
3 F.S.; defining the terms "distributor" and "importer";
4 amending s. 561.22, F.S.; extending to importers and
5 primary American sources the prohibition against having
6 common ownership with retail vendors; amending s. 561.42,
7 F.S.; extending to importers and primary American sources
8 the prohibition against providing certain financial
9 assistance to retail vendors; amending s. 561.56, F.S.;
10 extending certain transportation rights and restrictions
11 to importers; amending s. 561.57, F.S.; requiring that an
12 importer make deliveries in vehicles owned or leased by
13 the licensee which are subject to inspection and search
14 without a warrant; amending s. 562.07, F.S.; extending to
15 importers certain rights to transport unlimited quantities
16 of alcoholic beverages; amending s. 562.15, F.S.;
17 extending to importers certain rights to possess alcoholic
18 beverages upon which excise taxes have not been paid;
19 amending s. 562.20, F.S.; exempting importers from certain
20 reporting requirements related to amounts of alcoholic
21 beverages brought into the state; amending s. 562.26,
22 F.S.; authorizing importers to receive alcoholic beverages
23 upon which taxes have not been paid from storage warehouse
24 operators; amending s. 563.02, F.S.; imposing a license
25 tax upon importers of certain malt beverages; amending s.
26 563.08, F.S.; requiring importers of malt or brewed
27 beverages to make minimum cash deposits; deleting a
28 provision limiting the cash deposit obligation to domestic
29 malt or brewed beverages; amending s. 564.02, F.S.;

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30 imposing a license tax upon importers of certain brewed
31 beverages and wines; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsections (22) and (23) are added to section
36 561.01, Florida Statutes, to read:

37 561.01 Definitions.--As used in the Beverage Law:

38 (22) "Distributor" means a person who purchases alcoholic
39 beverages from a manufacturer, exporter, importer, or other
40 distributor for resale to licensed retail vendors in this state.

41 (23) "Importer" means a person, other than a manufacturer,
42 who sells alcoholic beverages produced outside this state to
43 other persons for resale or use in this state.

44 Section 2. Section 561.22, Florida Statutes, is amended to
45 read:

46 561.22 Licensing manufacturers, importers, primary American
47 sources, distributors, and registered exporters as vendors
48 prohibited.--

49 (1) Except as provided in this section, any applicant may
50 receive a license as a manufacturer, importer, primary American
51 source as defined in ss. 564.045 and 565.095, or distributor or
52 may be registered as an exporter, but a license or registration
53 may not be issued to a manufacturer, importer, primary American
54 source, distributor, or exporter as a vendor, and a license or
55 registration may not be issued to a vendor as a manufacturer,
56 importer, primary American source, distributor, or exporter.

57 (2) (a) If any applicant for a vendor's license or renewal
58 thereof is an individual, such individual is within the

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59 provisions of subsection (1) if he or she is interested or
60 connected, directly or indirectly, with any corporation which is
61 engaged, directly or indirectly, or through any subsidiary or
62 affiliate corporation, including any stock ownership exceeding
63 0.5 percent owned individually, including a 0.5 percent interest
64 in a blind or revocable trust, as set forth in subsection (3), in
65 manufacturing, importing, distributing, or exporting alcoholic
66 beverages under a license or registration of this state or any
67 state of the United States.

68 (b) If any applicant for a vendor's license or renewal
69 thereof is a copartnership, such copartnership is within the
70 provisions of subsection (1) if any member of the copartnership
71 is interested or connected, directly or indirectly, with any
72 corporation which is engaged, directly or indirectly, or through
73 any subsidiary or affiliate corporation, including any stock
74 ownership as set forth in subsection (3), in manufacturing,
75 importing, distributing, or exporting alcoholic beverages under a
76 license or registration of this state or any state of the United
77 States.

78 (3) If any applicant for a vendor's license or the renewal
79 thereof is a corporation, such corporation is within the
80 provisions of subsection (1) if such corporation is affiliated
81 with, directly or indirectly, any other corporation which is
82 engaged in manufacturing, importing, distributing, or exporting
83 alcoholic beverages under a license or registration of this state
84 or any other state of the United States, or if such applicant
85 corporation is controlled by or the majority stock therein owned
86 by another corporation, which latter corporation owns or controls
87 in any way the majority stock or controlling interest in any

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88 other corporation that is engaged, directly or indirectly, in
89 manufacturing, distributing, or exporting alcoholic beverages
90 under a license or registration in this state or any other state
91 in the United States.

92 (4) If any applicant for a manufacturer's, importer's, or
93 distributor's license or an exporter's or primary American
94 source's registration, or renewal thereof, is an individual or
95 copartnership, such individual or copartnership is within the
96 provisions of subsection (1) if the individual or any member of
97 the copartnership is interested or connected, directly or
98 indirectly, with any corporation which is engaged, directly or
99 indirectly, or through any subsidiary or affiliate corporation,
100 including any stock ownership as set forth in subsection (5) in
101 selling alcoholic beverages as a vendor under a license of this
102 state.

103 (5) If any applicant for a manufacturer's, importer's, or
104 distributor's license or an exporter's or primary American
105 source's registration, or the renewal thereof, is a corporation,
106 such corporation is within the provisions of subsection (1) if
107 such corporation is affiliated with, directly or indirectly, any
108 other corporation which is engaged in selling alcoholic beverages
109 as vendor under a license of this state or when such applicant
110 corporation is controlled by, or the majority stock therein owned
111 by another corporation, which latter corporation owns or controls
112 in any way the majority stock or controlling interest in any
113 other corporation that is engaged, directly or indirectly, in
114 selling alcoholic beverages as vendor under a license of this
115 state.

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116 Section 3. Section 561.42, Florida Statutes, is amended to
117 read:

118 561.42 Tied house evil; financial aid and assistance to
119 vendor by manufacturer or distributor prohibited; procedure for
120 enforcement; exception.--

121 (1) No licensed manufacturer, importer, primary American
122 source as defined in ss. 564.045 and 565.095, or distributor of
123 any of the beverages herein referred to shall have any financial
124 interest, directly or indirectly, in the establishment or
125 business of any vendor licensed under the Beverage Law; nor shall
126 such licensed manufacturer, importer, primary American source, or
127 distributor assist any vendor by any gifts or loans of money or
128 property of any description or by the giving of any rebates of
129 any kind whatsoever. No licensed vendor shall accept, directly or
130 indirectly, any gift or loan of money or property of any
131 description or any rebates from any such licensed manufacturer,
132 importer, primary American source, or distributor; provided,
133 however, that this does not apply to any bottles, barrels, or
134 other containers necessary for the legitimate transportation of
135 such beverages or to advertising materials and does not apply to
136 the extension of credit, for liquors sold, made strictly in
137 compliance with the provisions of this section.

138 (2) Credit for the sale of liquors may be extended to any
139 vendor up to, but not including, the 10th day after the calendar
140 week within which such sale was made.

141 (3) In cases when payment for sales to a vendor is not made
142 by the 10th day succeeding the calendar week in which such sale
143 was made, the distributor who made such sale shall, within 3
144 days, notify the division in writing of such fact; and the

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145 division, upon receipt of such notice, shall, after compliance
146 with the proceedings hereinafter mentioned, declare in writing to
147 such vendor and to all manufacturers, importers, and distributors
148 within the state that all further sales to such vendor are
149 prohibited until such time as the division certifies in writing
150 that such vendor has fully paid for all liquors previously
151 purchased. However, if a distributor received payment within the
152 3-day period following the 10th day succeeding the calendar week
153 in which the sale was made, the distributor, if notification to
154 the division has not already been made, is not required to notify
155 the division. Payments so made within the 3-day period do not
156 constitute a violation of this section.

157 (4) Before the division shall so declare and prohibit such
158 sales to such vendor, it shall, within 2 days after receipt of
159 such notice, give written notice to such vendor by mail of the
160 receipt by the division of such notification of delinquency and
161 such vendor shall be directed to forthwith make payment thereof
162 or, upon failure to do so, to show cause before the division why
163 further sales to such vendor shall not be prohibited. Good and
164 sufficient cause to prevent such action by the division may be
165 made by showing payment, failure of consideration, or any other
166 defense which would be considered sufficient in a common-law
167 action. The vendor shall have 5 days after receipt of such notice
168 within which to show such cause, and he or she may demand a
169 hearing thereon, provided he or she does so in writing within
170 said 5 days, such written demand to be delivered to the division
171 either in person or by due course of mail within such 5 days. If
172 no such demand for hearing is made, the division shall thereupon
173 declare in writing to such vendor and to all manufacturers and

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174 distributors within the state that all further sales to such
175 vendor are prohibited until such time as the division certifies
176 in writing that such vendor has fully paid for all liquors
177 previously purchased. In the event such prohibition of sales and
178 declaration thereof to the vendor, manufacturers, importers, and
179 distributors is ordered by the division, the vendor may seek
180 review of such decision by the Department of Business and
181 Professional Regulation within 5 days. In the event application
182 for such review is filed within such time, such prohibition of
183 sales shall not be made, published, or declared until final
184 disposition of such review by the department.

185 (5) Upon receipt by the division from the distributor of
186 the notice of nonpayment provided for by subsection (3), the
187 division shall forthwith notify such delinquent vendor and all
188 distributors in the state that no further purchases or sales of
189 liquor by or to such vendor, except for cash, shall be made until
190 good cause is shown by such vendor as heretofore provided for. No
191 liquor shall be purchased by such vendor or sold to him or her by
192 any distributor, except for cash, from and after such
193 notification by the division and until such cause is shown as is
194 provided for in subsection (4). In the event no good cause is
195 shown, then all further sales, for cash or credit, are hereby
196 prohibited after such declaration in writing by the division is
197 sent to such vendor and distributors and until all delinquent
198 accounts have been paid.

199 (6) Nothing herein shall be taken to forbid the giving of
200 trade discounts in the usual course of business upon wine and
201 liquor sales.

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202 (7) The extension or receiving of credits in violation of
203 this section shall be considered as an arrangement for financial
204 assistance and shall constitute a violation of the Beverage Law
205 and any maneuver, shift, or device of any kind by which credit is
206 extended contrary to the provisions of this section shall be
207 considered a violation of the Beverage Law.

208 (8) The division may establish rules and require reports to
209 enforce the herein-established limitation upon credits and other
210 forms of assistance. Nothing herein shall be taken to affect the
211 provisions of s. 563.08, but shall govern all other sales of
212 intoxicating liquors.

213 (9) The term "advertising materials" as used in this
214 section does not include outside signs so located as to be
215 connected with or appertaining to the vendor's licensed premises.

216 (10) No manufacturer, importer, primary American source, or
217 distributor of the beverages referred to herein shall directly or
218 indirectly give, lend, rent, sell, or in any other manner furnish
219 to a vendor any outside sign, printed, painted, electric, or
220 otherwise; nor shall any vendor display any sign advertising any
221 brand of alcoholic beverages on the outside of his or her
222 licensed premises, on any lot of ground of which the licensed
223 premises are situate, or on any building of which the licensed
224 premises are a part.

225 (11) A vendor may display in the interior of his or her
226 licensed premises, including the window or windows thereof, neon,
227 electric, or other signs, including window painting and
228 decalcomanias applied to the surface of the interior or exterior
229 of such windows, and posters, placards, and other advertising
230 material advertising the brand or brands of alcoholic beverages

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231 | sold by him or her, whether visible or not from the outside of
232 | the licensed premises, but no vendor shall display in the window
233 | or windows of his or her licensed premises more than one neon,
234 | electric, or similar sign, advertising the product of any one
235 | manufacturer or importer who functions as a primary American
236 | source for the brand.

237 | (12) Any manufacturer or distributor may give, lend,
238 | furnish, or sell to a vendor who sells the products of such
239 | manufacturer or distributor neon or electric signs, window
240 | painting and decalcomanias, posters, placards, and other
241 | advertising material herein authorized to be used or displayed by
242 | the vendor in the interior of his or her licensed premises. The
243 | division shall make reasonable rules governing promotional
244 | displays and advertising, which rules shall not conflict with or
245 | be more stringent than the federal regulations pertaining to such
246 | promotional displays and advertising furnished to vendors by
247 | distributors, importers, and manufacturers; provided, however,
248 | that:

249 | (a) If a manufacturer, importer, or distributor of malt
250 | beverage provides a vendor with expendable retailer advertising
251 | specialties such as trays, coasters, mats, menu cards, napkins,
252 | cups, glasses, thermometers, and the like, such items shall be
253 | sold at a price not less than the actual cost to the industry
254 | member who initially purchased them, without limitation in total
255 | dollar value of such items sold to a vendor.

256 | (b) Without limitation in total dollar value of such items
257 | provided to a vendor, a manufacturer, importer, or distributor of
258 | malt beverage may rent, loan without charge for an indefinite
259 | duration, or sell durable retailer advertising specialties such

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260 as clocks, pool table lights, and the like, which bear
261 advertising matter.

262 (c) If a manufacturer, importer, or distributor of malt
263 beverage provides a vendor with consumer advertising specialties
264 such as ashtrays, T-shirts, bottle openers, shopping bags, and
265 the like, such items shall be sold at a price not less than the
266 actual cost to the industry member who initially purchased them,
267 but may be sold without limitation in total value of such items
268 sold to a vendor.

269 (d) A manufacturer, importer, or distributor of malt
270 beverage may provide consumer advertising specialties described
271 in paragraph (c) to consumers on any vendor's licensed premises.

272 (e) Coupons redeemable by vendors shall not be furnished by
273 distributors of beer to consumers.

274 (f) Manufacturers, importers, or distributors of beer shall
275 not conduct any sampling activities that include tasting of their
276 product at a vendor's premises licensed for off-premises sales
277 only.

278 (g) Manufacturers, importers, and distributors of beer
279 shall not engage in cooperative advertising with vendors.

280 (h) Distributors of beer may sell to vendors draft
281 equipment and tapping accessories at a price not less than the
282 cost to the industry member who initially purchased them, except
283 there is no required charge, and a distributor may exchange any
284 parts which are not compatible with a competitor's system and are
285 necessary to dispense the distributor's brands. A distributor of
286 beer may furnish to a vendor at no charge replacement parts of
287 nominal intrinsic value, including, but not limited to, washers,

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288 gaskets, tail pieces, hoses, hose connections, clamps, plungers,
289 and tap markers.

290 Section 4. Section 561.56, Florida Statutes, is amended to
291 read:

292 561.56 Transportation of beverages by manufacturers,
293 importers, distributors, and exporters.--Manufacturers,
294 importers, distributors, and exporters may transport or cause to
295 be transported such beverages from one place in this state to
296 another place in this state, or from any place beyond the limits
297 of this state into any place within this state, or from any place
298 in this state to any place beyond this state, for sale at
299 wholesale or export as herein provided, except that no beverage
300 prohibited to be sold in certain counties in this state shall be
301 transported for sale or be caused to be transported for sale in
302 the counties where their sale is prohibited.

303 Section 5. Subsections (2) and (5) of section 561.57,
304 Florida Statutes, are amended to read:

305 561.57 Deliveries by licensees.--

306 (2) Deliveries made by a licensed manufacturer, importer,
307 distributor, or vendor away from his or her place of business may
308 be made only in vehicles which are owned or leased by the
309 licensee. By acceptance of an alcoholic beverage license and the
310 use of such vehicles, the licensee agrees that such vehicle shall
311 always be subject to be inspected and searched without a search
312 warrant, for the purpose of ascertaining that all provisions of
313 the alcoholic beverage laws are complied with, by authorized
314 employees of the division and also by sheriffs, deputy sheriffs,
315 and police officers during business hours or other times the

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316 vehicle is being used to transport or deliver alcoholic
317 beverages.

318 (5) Nothing contained in this section shall prohibit
319 deliveries by the licensee from his or her permitted storage area
320 or deliveries by a distributor from the manufacturer or importer
321 to his or her licensed premises; nor shall a pool buying agent be
322 prohibited from transporting pool purchases to the licensed
323 premises of his or her members with the licensee's owned or
324 leased vehicles, and in such cases, no vehicle permit shall be
325 required in the transporting of such alcoholic beverages. In
326 addition, a licensed salesperson of wine and spirits is
327 authorized to deliver alcoholic beverages in his or her vehicle
328 on behalf of the distributor without having to obtain a vehicle
329 permit.

330 Section 6. Section 562.07, Florida Statutes, is amended to
331 read:

332 562.07 Illegal transportation of beverages.--It is unlawful
333 for alcoholic beverages to be transported in quantities of more
334 than 12 bottles except as follows:

335 (1) By common carriers;

336 (2) In the owned or leased vehicles of licensed vendors
337 transporting alcoholic beverage purchases from the distributor's
338 place of business to the vendor's licensed place of business or
339 off-premises storage and to which said vehicles are attached a
340 permit or decal as provided for in the alcoholic beverage law;

341 (3) By individuals who possess such beverages not for
342 resale within the state;

343 (4) By licensed manufacturers, importers, distributors, or
344 vendors delivering alcoholic beverages away from their place of

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345 business in vehicles which are owned or leased by such licensees;
346 and

347 (5) By a vendor, distributor, pool buying agent, or
348 salesperson of wine and spirits as outlined in s. 561.57(5).

349 Section 7. Section 562.15, Florida Statutes, is amended to
350 read:

351 562.15 Unlawful possession; unpaid taxes.--It is unlawful
352 for any person to own or possess within this state any alcoholic
353 beverage, unless full compliance has been had with the pertinent
354 provisions of the Beverage Law as to payment of excise taxes on
355 beverages of like alcohol content. However, this section shall
356 not apply:

357 (1) To manufacturers, importers, or distributors licensed
358 under the Beverage Law, to state bonded warehouses, or to common
359 carriers; or

360 (2) To persons possessing not in excess of 1 gallon of such
361 beverages if the beverage shall have been purchased by said
362 possessor outside of the state in accordance with the laws of the
363 place where purchased and shall have been brought into this state
364 by said possessor. The burden of proof that such beverages were
365 purchased outside the state and in accordance with the laws of
366 the place where purchased shall in all cases be upon the
367 possessor of such beverages.

368 Section 8. Section 562.20, Florida Statutes, is amended to
369 read:

370 562.20 Monthly reports by common and other carriers of
371 beverages required.--

372 (1) All common carriers of freight operating in the state
373 shall file monthly reports with the division on forms to be

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374 prepared by the division which shall show in detail all shipments
375 of alcoholic beverages transported by them to or from any point
376 within the state.

377 (2) Every other person, except manufacturers, importers,
378 and distributors licensed in this state who are required to make
379 reports under s. 561.55, who brings into the state from any point
380 without the state any alcoholic beverages, in amounts exceeding 1
381 gallon in the aggregate, shall likewise file monthly reports with
382 the division on the forms to be prepared by the division, which
383 shall show in detail all such amounts of alcoholic beverages
384 transported by them to any point within the state from any point
385 without the state. Every licensee under this law who ships any
386 alcoholic beverage to points beyond the state shall file monthly
387 reports with the division on forms to be prepared by the
388 division, which shall show in detail all shipments of alcoholic
389 beverages transported by them from any point within the state to
390 any point without the state.

391 (3) Such reports shall show in detail the name of the
392 shipper and the consignee of each shipment and a description of
393 the kind and amount of each such shipment and shall be filed
394 monthly on or before the 15th of each month for the calendar
395 month previous.

396 Section 9. Section 562.26, Florida Statutes, is amended to
397 read:

398 562.26 Delivering beverage on which tax unpaid.--It is
399 unlawful for any storage warehouse operator to deliver any
400 beverages subject to tax under the Beverage Law and on which the
401 tax has not been paid to anyone within the state except a common
402 carrier or a manufacturer or distributor licensed under the

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403 Beverage Law to manufacture, import, or distribute the type of
404 beverage so delivered.

405 Section 10. Subsection (3) of section 563.02, Florida
406 Statutes, is amended to read:

407 563.02 License fees; vendors; manufacturers and
408 distributors.--

409 (3) Each distributor or importer who shall distribute or
410 sell alcoholic beverages containing less than 17.259 percent
411 alcohol by volume shall pay an annual state license tax of \$1,250
412 for each establishment or branch he or she may operate.

413 Section 11. Section 563.08, Florida Statutes, is amended to
414 read:

415 563.08 Cash deposit on beer sales.--All licensed
416 manufacturers and importers, when distributing under a
417 manufacturer's or importer's license, wholesalers and
418 distributors of ~~domestic~~ malt or brewed beverages, as defined in
419 the Beverage Law, shall require a minimum cash deposit of 50
420 cents on the sale of each case of 24 bottles of any ~~domestic~~ malt
421 or brewed beverage herein referred to from their vendors, except
422 nonreturnable bottles, and all vendors thereof shall make a
423 minimum cash deposit of 50 cents on the purchase of each case of
424 24 bottles of any ~~domestic~~ malt or brewed beverage herein
425 referred to, except nonreturnable bottles, and vendors shall
426 require a minimum cash deposit of 50 cents on the sale of each
427 case of 24 bottles of any ~~domestic~~ malt or brewed beverages
428 herein referred to from their purchasers, except nonreturnable
429 bottles. Said manufacturers, importers, wholesalers, and
430 distributors shall keep a record of all such deposits and shall
431 make refund to their vendors within 10 days after receipt of

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432 notice from such vendors in writing that empties are ready for
433 return, if such be true, to such manufacturers, importers,
434 wholesalers, and distributors.

435 Section 12. Subsection (3) of section 564.02, Florida
436 Statutes, is amended to read:

437 564.02 License fees; vendors; manufacturers and
438 distributors.--

439 (3) (a) Each distributor or importer authorized to sell
440 brewed beverages containing malt, wines, and fortified wines in
441 counties where the sale of intoxicating liquors, wines, and beers
442 is permitted shall pay for each and every such establishment or
443 branch he or she may operate or conduct a state license tax of
444 \$1,250.

445 (b) A bona fide religious order, monastery, church, or
446 religious body that has a tax-exempt status as provided by s.
447 212.08(7)(m) or (p) may be licensed as a distributor under this
448 subsection if its sales and distribution are limited to wines
449 sold solely for religious or sacramental purposes to holders of
450 valid permits obtained under s. 564.03; and such religious order,
451 monastery, church, or religious body shall pay a state license
452 tax of \$50 for each and every such distribution establishment to
453 be operated by the licensee.

454 Section 13. This act shall take effect July 1, 2008.