

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 951 Beverage Law
SPONSOR(S): Schultz and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Jobs & Entrepreneurship Council</u>	<u></u>	<u>Livingston/Topp</u>	<u>Thorn</u>
2) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
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5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Division of Alcoholic Beverages and Tobacco [Division] in the DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, wholesaler, and retailer. The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Notwithstanding the overall premise, the Beverage Law contains a series of exceptions to the structured three-tiered distribution system.

The bill prohibits alcoholic beverage importers and primary American sources of supply from obtaining licensure as retail vendors, or from having any financial interest in retail vendors. It includes importers and primary American sources of supply in the current statutory provisions for "tied house evil" prohibitions. The bill includes importers in the current statutory provisions for deliveries and transportation of alcoholic beverages by licensees; requires licensed importers in Florida to maintain inventory in State bonded warehouses; requires importers of malt beverages, cider, wine coolers, special low-proof products, wines and fortified wines, to pay the same annual license fee, \$1,250, as a distributor of these products.

The department estimates the increase in the annual license fee will result in the collection of an additional \$105,000 in annual revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Ensure lower taxes:

The bill creates a new fee to coincide with the creation of new licensure classifications.

B. EFFECT OF PROPOSED CHANGES:

Present situation

The Division of Alcoholic Beverages and Tobacco (division) in the DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages. The beverage laws are divided into several chapters: chapter 561, F.S., relates to administration, chapter 562, F.S., relates to enforcement, chapter 563, F.S., relates to beer, chapter 562, F.S., relates to wine, chapter 565, F.S., relates to liquor, chapter 567, F.S., relates to local option elections, and chapter 568, F.S., relates to county prohibitions.

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Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those restrictions, s. 561.42, F.S., prohibits a manufacturer or distributor from having any financial interest, directly or indirectly, in the establishment or business of any retailer. Section 561.22, F.S., provides that no manufacturer, distributor or exporter may be licensed as a retailer. This statute further provides that no retailer may also be licensed as a manufacturer, distributor or exporter. Section 561.24, F.S., provides that no manufacturer, rectifier or distiller of spirituous liquors or wine can be licensed as a distributor or be registered as an exporter. Notwithstanding the overall premise, the beverage law also contains exceptions to the structured three-tiered distribution system.

Sections 564.045 and 565.095, F.S., closely mirror each other relating to "licensure as [a] primary American source of supply" (PAS) for wine and distilled spirits, respectively. The stated purposes of both of these sections are for "tax revenue control."

The PAS provisions require the registration of each brand of wine and distilled spirits sold in Florida and the licensure of that brand's PAS. There is only one PAS for each brand and each brand must be associated with a licensed PAS. Generally, the PAS is either the manufacturer or the source closest to the manufacturer in the channel of commerce from whom the product can be secured. In the case of foreign-produced wine it is often an importer. Licensure as a PAS authorizes the shipment of the beverages to licensed distributors, importers, manufacturers, bonded warehouses, and registered exporters within the state.

Effect of proposed changes

The bill prohibits alcoholic beverage importers and primary American sources of supply from obtaining licensure as retail vendors, or from having any financial interest in retail vendors. It includes importers and primary American sources of supply in the current statutory provisions for "tied house evil" prohibitions. The bill includes importers in the current statutory provisions for deliveries and transportation of alcoholic beverages by licensees; requires licensed importers in Florida to maintain inventory in State bonded warehouses; requires importers of malt beverages, cider, wine coolers,

special low-proof products, wines and fortified wines, to pay the same annual license fee as a distributor of these products.

C. SECTION DIRECTORY:

Section 1. Amends s. 561.01, F.S., to specify definitions of “distributor,” “importer,” and “primary American source of supply.”

Section 2. Amends s. 561.22, F.S., to prohibit certain importers and primary American sources of supply from obtaining an alcoholic beverage vendor's license.

Section 3. Amends s. 561.42, F.S., to prohibit an importer or primary American source of supply from having specified financial interest in licensed vendors.

Section 4. Amends s. 561.56, F.S., to revise provisions relating to the transportation of beverages.

Section 5. Amends s. 561.57, F.S., to revise provisions relating to deliveries by licensees to include those made by licensed importers

Section 6. Amends s. 562.07, F.S., to revise an exception to illegal transportation of beverages to include certain importers.

Section 7. Amends s. 562.15, F.S., to revise an exception provision relating to unlawful possession of alcoholic beverages for which excise taxes are due to include importers.

Section 8. Amends s. 562.20, F.S., to exclude importers from certain reporting requirements.

Section 9. Amends s. 562.26, F.S., to include importers among those to whom certain storage warehouse operators may make deliveries.

Section 10. Amends s. 563.02, F.S., to require certain importers of malt beverages to pay an annual state license tax.

Section 11. Amends s. 563.08, F.S., to require certain importers to make a specified cash deposit on beer sales.

Section 12. Amends s. 564.02, F.S., to require certain importers authorized to sell brewed beverages containing malt, wines, and fortified wines in certain counties to pay a state license tax.

Section 13. Effective date - July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The department anticipates an annual increase in revenues of \$105,000.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The license fees for importers of malt beverages, cider, wine coolers, special low-proof products, wines and fortified wines will be required to pay \$1,250 annually instead of \$500.

D. FISCAL COMMENTS:

The department estimates the increase in the annual license fee will result in the collection of an additional \$105,000 in annual revenues. No additional expenditures are anticipated.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES