

1                                   A bill to be entitled  
2       An act relating to the Beverage Law; amending s. 561.01,  
3       F.S.; providing definitions; amending s. 561.22, F.S.;  
4       prohibiting certain importers and primary American sources  
5       of supply from obtaining an alcoholic beverage vendor's  
6       license; amending s. 561.42, F.S.; prohibiting an importer  
7       or primary American source of supply from having specified  
8       amounts of financial interest in licensed vendors;  
9       providing notice requirements; providing prohibitions  
10      relating to the display of signs by a vendor in relation  
11      to importers and primary American sources of supply;  
12      amending s. 561.56, F.S.; revising provision relating to  
13      the transportation of beverages by manufacturers,  
14      distributors, and exporters to clarify applicability to  
15      those licensed and to include beverages transported by  
16      licensed importers; amending s. 561.57, F.S.; revising  
17      provisions relating to deliveries by licensees to include  
18      those made by licensed importers; amending s. 562.07,  
19      F.S.; revising an exception to a provision relating to the  
20      illegal transportation of beverages in specified  
21      quantities to include those made by certain importers;  
22      amending s. 562.15, F.S.; revising an exception to a  
23      provision relating to unlawful possession of alcoholic  
24      beverages for which excise taxes are due to include  
25      importers; amending s. 562.20, F.S.; excluding importers  
26      from certain reporting requirements; amending s. 562.26,  
27      F.S.; including importers among those to whom certain  
28      storage warehouse operators may make deliveries; amending

HB 951

2008

29 s. 563.02, F.S.; requiring certain importers of malt  
 30 beverages to pay an annual state license tax; amending s.  
 31 563.08, F.S.; requiring certain importers to make a  
 32 specified cash deposit on beer sales; amending s. 564.02,  
 33 F.S.; requiring certain importers authorized to sell  
 34 brewed beverages containing malt, wines, and fortified  
 35 wines in certain counties to pay a state license tax;  
 36 providing an effective date.

37

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

39

40 Section 1. Subsections (22), (23), and (24) are added to  
 41 section 561.01, Florida Statutes, to read:

42 561.01 Definitions.--As used in the Beverage Law:

43 (22) "Distributor" means all persons or entities  
 44 purchasing an alcoholic beverage from a manufacturer, exporter,  
 45 importer, or other distributor for resale to one or more  
 46 licensed retail vendors in the state.

47 (23) "Importer" means all persons or entities other than  
 48 manufacturers selling, or causing to be sold, alcoholic  
 49 beverages produced outside the state to persons for resale or  
 50 use inside the state.

51 (24) "Primary American source of supply" shall have the  
 52 same meaning as provided in ss. 564.045(1) and 565.095(1).

53 Section 2. Section 561.22, Florida Statutes, is amended to  
 54 read:

55           561.22 Licensing manufacturers, importers, primary  
 56 American sources of supply, distributors, and registered  
 57 exporters as vendors prohibited.--

58           (1) Except as provided in this section, any applicant may  
 59 receive a license as a manufacturer, importer, primary American  
 60 source of supply, or distributor or may be registered as an  
 61 exporter, but a license or registration may not be issued to a  
 62 manufacturer, importer, primary American source of supply,  
 63 distributor, or exporter as a vendor, and a license or  
 64 registration may not be issued to a vendor as a manufacturer,  
 65 importer, primary American source of supply, distributor, or  
 66 exporter.

67           (2)(a) If any applicant for a vendor's license or renewal  
 68 thereof is an individual, such individual is within the  
 69 provisions of subsection (1) if he or she is interested or  
 70 connected, directly or indirectly, with any corporation which is  
 71 engaged, directly or indirectly, or through any subsidiary or  
 72 affiliate corporation, including any stock ownership exceeding  
 73 0.5 percent owned individually, including a 0.5 percent interest  
 74 in a blind or revocable trust, as set forth in subsection (3),  
 75 in manufacturing, importing, distributing, or exporting  
 76 alcoholic beverages under a license or registration of this  
 77 state or any state of the United States.

78           (b) If any applicant for a vendor's license or renewal  
 79 thereof is a copartnership, such copartnership is within the  
 80 provisions of subsection (1) if any member of the copartnership  
 81 is interested or connected, directly or indirectly, with any  
 82 corporation which is engaged, directly or indirectly, or through

83 any subsidiary or affiliate corporation, including any stock  
 84 ownership as set forth in subsection (3), in manufacturing,  
 85 importing, distributing, or exporting alcoholic beverages under  
 86 a license or registration of this state or any state of the  
 87 United States.

88 (3) If any applicant for a vendor's license or the renewal  
 89 thereof is a corporation, such corporation is within the  
 90 provisions of subsection (1) if such corporation is affiliated  
 91 with, directly or indirectly, any other corporation which is  
 92 engaged in manufacturing, importing, distributing, or exporting  
 93 alcoholic beverages under a license or registration of this  
 94 state or any other state of the United States, or if such  
 95 applicant corporation is controlled by or the majority stock  
 96 therein owned by another corporation, which latter corporation  
 97 owns or controls in any way the majority stock or controlling  
 98 interest in any other corporation that is engaged, directly or  
 99 indirectly, in manufacturing, importing, distributing, or  
 100 exporting alcoholic beverages under a license or registration in  
 101 this state or any other state in the United States.

102 (4) If any applicant for a manufacturer's, importer's, or  
 103 distributor's license or an exporter's or primary American  
 104 source of supply's registration, or renewal thereof, is an  
 105 individual or copartnership, such individual or copartnership is  
 106 within the provisions of subsection (1) if the individual or any  
 107 member of the copartnership is interested or connected, directly  
 108 or indirectly, with any corporation which is engaged, directly  
 109 or indirectly, or through any subsidiary or affiliate  
 110 corporation, including any stock ownership as set forth in

111 subsection (5) in selling alcoholic beverages as a vendor under  
 112 a license of this state.

113 (5) If any applicant for a manufacturer's, importer's, or  
 114 distributor's license or an exporter's or primary American  
 115 source of supply's registration, or the renewal thereof, is a  
 116 corporation, such corporation is within the provisions of  
 117 subsection (1) if such corporation is affiliated with, directly  
 118 or indirectly, any other corporation which is engaged in selling  
 119 alcoholic beverages as vendor under a license of this state or  
 120 when such applicant corporation is controlled by, or the  
 121 majority stock therein owned by another corporation, which  
 122 latter corporation owns or controls in any way the majority  
 123 stock or controlling interest in any other corporation that is  
 124 engaged, directly or indirectly, in selling alcoholic beverages  
 125 as vendor under a license of this state.

126 Section 3. Subsections (1), (3), (4), (10), (11), and (12)  
 127 of section 561.42, Florida Statutes, are amended to read:

128 561.42 Tied house evil; financial aid and assistance to  
 129 vendor by manufacturer, importer, primary American source of  
 130 supply, or distributor prohibited; procedure for enforcement;  
 131 exception.--

132 (1) No licensed manufacturer, importer, primary American  
 133 source of supply, or distributor of any of the beverages herein  
 134 referred to shall have any financial interest, directly or  
 135 indirectly, in the establishment or business of any vendor  
 136 licensed under the Beverage Law; nor shall such licensed  
 137 manufacturer, importer, primary American source of supply, or  
 138 distributor assist any vendor by any gifts or loans of money or

HB 951

2008

139 property of any description or by the giving of any rebates of  
140 any kind whatsoever. No licensed vendor shall accept, directly  
141 or indirectly, any gift or loan of money or property of any  
142 description or any rebates from any such licensed manufacturer,  
143 importer, primary American source of supply, or distributor;  
144 provided, however, that this does not apply to any bottles,  
145 barrels, or other containers necessary for the legitimate  
146 transportation of such beverages or to advertising materials and  
147 does not apply to the extension of credit, for liquors sold,  
148 made strictly in compliance with the provisions of this section.

149 (3) In cases when payment for sales to a vendor is not  
150 made by the 10th day succeeding the calendar week in which such  
151 sale was made, the distributor who made such sale shall, within  
152 3 days, notify the division in writing of such fact; and the  
153 division, upon receipt of such notice, shall, after compliance  
154 with the proceedings hereinafter mentioned, declare in writing  
155 to such vendor and to all licensed manufacturers, importers, and  
156 distributors within the state that all further sales to such  
157 vendor are prohibited until such time as the division certifies  
158 in writing that such vendor has fully paid for all liquors  
159 previously purchased. However, if a distributor received payment  
160 within the 3-day period following the 10th day succeeding the  
161 calendar week in which the sale was made, the distributor, if  
162 notification to the division has not already been made, is not  
163 required to notify the division. Payments so made within the 3-  
164 day period do not constitute a violation of this section.

165 (4) Before the division shall so declare and prohibit such  
166 sales to such vendor, it shall, within 2 days after receipt of

HB 951

2008

167 such notice, give written notice to such vendor by mail of the  
168 receipt by the division of such notification of delinquency and  
169 such vendor shall be directed to forthwith make payment thereof  
170 or, upon failure to do so, to show cause before the division why  
171 further sales to such vendor shall not be prohibited. Good and  
172 sufficient cause to prevent such action by the division may be  
173 made by showing payment, failure of consideration, or any other  
174 defense which would be considered sufficient in a common-law  
175 action. The vendor shall have 5 days after receipt of such  
176 notice within which to show such cause, and he or she may demand  
177 a hearing thereon, provided he or she does so in writing within  
178 said 5 days, such written demand to be delivered to the division  
179 either in person or by due course of mail within such 5 days. If  
180 no such demand for hearing is made, the division shall thereupon  
181 declare in writing to such vendor and to all manufacturers,  
182 importers, and distributors within the state that all further  
183 sales to such vendor are prohibited until such time as the  
184 division certifies in writing that such vendor has fully paid  
185 for all liquors previously purchased. In the event such  
186 prohibition of sales and declaration thereof to the vendor,  
187 manufacturers, importers, and distributors is ordered by the  
188 division, the vendor may seek review of such decision by the  
189 Department of Business and Professional Regulation within 5  
190 days. In the event application for such review is filed within  
191 such time, such prohibition of sales shall not be made,  
192 published, or declared until final disposition of such review by  
193 the department.

HB 951

2008

194           (10) No manufacturer, importer, primary American source of  
195 supply, or distributor of the beverages referred to herein shall  
196 directly or indirectly give, lend, rent, sell, or in any other  
197 manner furnish to a vendor any outside sign, printed, painted,  
198 electric, or otherwise; nor shall any vendor display any sign  
199 advertising any brand of alcoholic beverages on the outside of  
200 his or her licensed premises, on any lot of ground of which the  
201 licensed premises are situate, or on any building of which the  
202 licensed premises are a part.

203           (11) A vendor may display in the interior of his or her  
204 licensed premises, including the window or windows thereof,  
205 neon, electric, or other signs, including window painting and  
206 decalcomanias applied to the surface of the interior or exterior  
207 of such windows, and posters, placards, and other advertising  
208 material advertising the brand or brands of alcoholic beverages  
209 sold by him or her, whether visible or not from the outside of  
210 the licensed premises, but no vendor shall display in the window  
211 or windows of his or her licensed premises more than one neon,  
212 electric, or similar sign, advertising the product of any one  
213 manufacturer or importer who functions as a primary American  
214 source of supply for that brand.

215           (12) Any manufacturer, importer, or distributor may give,  
216 lend, furnish, or sell to a vendor who sells the products of  
217 such manufacturer, importer, or distributor neon or electric  
218 signs, window painting and decalcomanias, posters, placards, and  
219 other advertising material herein authorized to be used or  
220 displayed by the vendor in the interior of his or her licensed  
221 premises. The division shall make reasonable rules governing



HB 951

2008

222 promotional displays and advertising, which rules shall not  
223 conflict with or be more stringent than the federal regulations  
224 pertaining to such promotional displays and advertising  
225 furnished to vendors by distributors, importers, and  
226 manufacturers; provided, however, that:

227 (a) If a manufacturer, importer, or distributor of malt  
228 beverage provides a vendor with expendable retailer advertising  
229 specialties such as trays, coasters, mats, menu cards, napkins,  
230 cups, glasses, thermometers, and the like, such items shall be  
231 sold at a price not less than the actual cost to the industry  
232 member who initially purchased them, without limitation in total  
233 dollar value of such items sold to a vendor.

234 (b) Without limitation in total dollar value of such items  
235 provided to a vendor, a manufacturer, importer, or distributor  
236 of malt beverage may rent, loan without charge for an indefinite  
237 duration, or sell durable retailer advertising specialties such  
238 as clocks, pool table lights, and the like, which bear  
239 advertising matter.

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

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

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

252 (f) Manufacturers, importers, and ~~or~~ distributors of beer  
 253 shall not conduct any sampling activities that include tasting  
 254 of their product at a vendor's premises licensed for off-  
 255 premises sales only.

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

258 (h) Distributors of beer may sell to vendors draft  
 259 equipment and tapping accessories at a price not less than the  
 260 cost to the industry member who initially purchased them, except  
 261 there is no required charge, and a distributor may exchange any  
 262 parts which are not compatible with a competitor's system and  
 263 are necessary to dispense the distributor's brands. A  
 264 distributor of beer may furnish to a vendor at no charge  
 265 replacement parts of nominal intrinsic value, including, but not  
 266 limited to, washers, gaskets, tail pieces, hoses, hose  
 267 connections, clamps, plungers, and tap markers.

268 Section 4. Section 561.56, Florida Statutes, is amended to  
 269 read:

270 561.56 Transportation of beverages by manufacturers,  
 271 importers, distributors, and exporters.--Licensed manufacturers,  
 272 importers, distributors, and exporters may transport or cause to  
 273 be transported such beverages from one place in this state to  
 274 another place in this state, or from any place beyond the limits  
 275 of this state into any place within this state, or from any  
 276 place in this state to any place beyond this state, for sale at  
 277 wholesale or export as herein provided, except that no beverage

278 prohibited to be sold in certain counties in this state shall be  
 279 transported for sale or be caused to be transported for sale in  
 280 the counties where their sale is prohibited.

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

283 561.57 Deliveries by licensees.--

284 (2) Deliveries made by a licensed manufacturer, importer,  
 285 distributor, or vendor away from his or her place of business  
 286 may be made only in vehicles which are owned or leased by the  
 287 licensee. By acceptance of an alcoholic beverage license and the  
 288 use of such vehicles, the licensee agrees that such vehicle  
 289 shall always be subject to be inspected and searched without a  
 290 search warrant, for the purpose of ascertaining that all  
 291 provisions of the alcoholic beverage laws are complied with, by  
 292 authorized employees of the division and also by sheriffs,  
 293 deputy sheriffs, and police officers during business hours or  
 294 other times the vehicle is being used to transport or deliver  
 295 alcoholic beverages.

296 (5) Nothing contained in this section shall prohibit  
 297 deliveries by the licensee from his or her permitted storage  
 298 area or deliveries by a distributor from the licensed  
 299 manufacturer or importer to his or her licensed premises; nor  
 300 shall a pool buying agent be prohibited from transporting pool  
 301 purchases to the licensed premises of his or her members with  
 302 the licensee's owned or leased vehicles, and in such cases, no  
 303 vehicle permit shall be required in the transporting of such  
 304 alcoholic beverages. In addition, a licensed salesperson of wine  
 305 and spirits is authorized to deliver alcoholic beverages in his

HB 951

2008

306 or her vehicle on behalf of the distributor without having to  
 307 obtain a vehicle permit.

308 Section 6. Subsection (4) of section 562.07, Florida  
 309 Statutes, is amended to read:

310 562.07 Illegal transportation of beverages.--It is  
 311 unlawful for alcoholic beverages to be transported in quantities  
 312 of more than 12 bottles except as follows:

313 (4) By licensed manufacturers, importers, distributors, or  
 314 vendors delivering alcoholic beverages away from their place of  
 315 business in vehicles which are owned or leased by such  
 316 licensees; and

317 Section 7. Section 562.15, Florida Statutes, is amended to  
 318 read:

319 562.15 Unlawful possession; unpaid taxes.--It is unlawful  
 320 for any person to own or possess within this state any alcoholic  
 321 beverage, unless full compliance has been had with the pertinent  
 322 provisions of the Beverage Law as to payment of excise taxes on  
 323 beverages of like alcohol content. However, this section shall  
 324 not apply:

325 (1) To manufacturers, importers, or distributors licensed  
 326 under the Beverage Law, to state bonded warehouses, or to common  
 327 carriers; or

328 (2) To persons possessing not in excess of 1 gallon of  
 329 such beverages if the beverage shall have been purchased by said  
 330 possessor outside of the state in accordance with the laws of  
 331 the place where purchased and shall have been brought into this  
 332 state by said possessor. The burden of proof that such beverages  
 333 were purchased outside the state and in accordance with the laws

HB 951

2008

334 of the place where purchased shall in all cases be upon the  
 335 possessor of such beverages.

336 Section 8. Subsection (2) of section 562.20, Florida  
 337 Statutes, is amended to read:

338 562.20 Monthly reports by common and other carriers of  
 339 beverages required.--

340 (2) Every other person, except manufacturers, importers,  
 341 and distributors licensed in this state who are required to make  
 342 reports under s. 561.55, who brings into the state from any  
 343 point without the state any alcoholic beverages, in amounts  
 344 exceeding 1 gallon in the aggregate, shall likewise file monthly  
 345 reports with the division on the forms to be prepared by the  
 346 division, which shall show in detail all such amounts of  
 347 alcoholic beverages transported by them to any point within the  
 348 state from any point without the state. Every licensee under  
 349 this law who ships any alcoholic beverage to points beyond the  
 350 state shall file monthly reports with the division on forms to  
 351 be prepared by the division, which shall show in detail all  
 352 shipments of alcoholic beverages transported by them from any  
 353 point within the state to any point without the state.

354 Section 9. Section 562.26, Florida Statutes, is amended to  
 355 read:

356 562.26 Delivering beverage on which tax unpaid.--It is  
 357 unlawful for any storage warehouse operator to deliver any  
 358 beverages subject to tax under the Beverage Law and on which the  
 359 tax has not been paid to anyone within the state except a common  
 360 carrier or a manufacturer, importer, or distributor licensed

361 under the Beverage Law to manufacture, import, or distribute the  
 362 type of beverage so delivered.

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

365 563.02 License fees; vendors; manufacturers, importers,  
 366 and distributors.--

367 (3) Each distributor or importer who shall distribute or  
 368 sell alcoholic beverages containing less than 17.259 percent  
 369 alcohol by volume shall pay an annual state license tax of  
 370 \$1,250 for each establishment or branch he or she may operate.

371 Section 11. Section 563.08, Florida Statutes, is amended  
 372 to read:

373 563.08 Cash deposit on beer sales.--All licensed  
 374 manufacturers and importers, when distributing under a  
 375 manufacturer's or importer's license, as well as wholesalers and  
 376 distributors of domestic malt or brewed beverages, as defined in  
 377 the Beverage Law, shall require a minimum cash deposit of 50  
 378 cents on the sale of each case of 24 bottles of any domestic  
 379 malt or brewed beverage herein referred to from their vendors,  
 380 except nonreturnable bottles, and all vendors thereof shall make  
 381 a minimum cash deposit of 50 cents on the purchase of each case  
 382 of 24 bottles of any domestic malt or brewed beverage herein  
 383 referred to, except nonreturnable bottles, and vendors shall  
 384 require a minimum cash deposit of 50 cents on the sale of each  
 385 case of 24 bottles of any domestic malt or brewed beverages  
 386 herein referred to from their purchasers, except nonreturnable  
 387 bottles. Said manufacturers, importers, wholesalers, and  
 388 distributors shall keep a record of all such deposits and shall

HB 951

2008

389 | make refund to their vendors within 10 days after receipt of  
390 | notice from such vendors in writing that empties are ready for  
391 | return, if such be true, to such manufacturers, importers,  
392 | wholesalers, and distributors.

393 |       Section 12. Paragraph (a) of subsection (3) of section  
394 | 564.02, Florida Statutes, is amended to read:

395 |       564.02 License fees; vendors; manufacturers, and  
396 | distributors, and importers.--

397 |       (3) (a) Each distributor or importer authorized to sell  
398 | brewed beverages containing malt, wines, and fortified wines in  
399 | counties where the sale of intoxicating liquors, wines, and  
400 | beers is permitted shall pay for each and every such  
401 | establishment or branch he or she may operate or conduct a state  
402 | license tax of \$1,250.

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