

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1247 Hillsborough County
SPONSOR(S): Military & Local Affairs Policy Committee and Ambler
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2510

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	11 Y, 1 N, As CS	Noriega	Hoagland
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill authorizes the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation (Division) to issue a special alcoholic beverage license for use within the Children’s Museum of Tampa, Inc., (Museum) and on its adjoining grounds.

The bill provides that the Museum must pay the applicable license fee provided in Florida Statutes, and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises. Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises.

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder.

This bill has an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapters 561-568, F.S., comprise Florida's Beverage Law. Section 561.02, F.S., provides that the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation (Division) is responsible for the enforcement of these statutes. The Beverage Law requires the Division to conduct background investigations on potential licensees and requires that licensees meet prescribed standards of moral character. Further, the Beverage Law prohibits certain business practices and relationships. Alcoholic beverage licenses are subject to fines, suspensions and/or revocations for violations of the Beverage Law.

Section 561.17, F.S., requires a business entity or person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages.¹ The sale of alcoholic beverages is generally considered to be a privilege and, as such, licensees² are held to a high standard of accountability.

Unless sold by the package for consumption off the licensed premises, the sale and consumption of alcoholic beverages by the drink is limited to the "licensed premises" of a retail establishment over which the licensee has dominion or control. The Beverage Law does not allow a patron to leave an establishment with an open alcoholic beverage and/or enter another licensed premises with an alcoholic beverage.

Section 565.02(1)(b), F.S., provides that a vendor must pay an annual license fee of \$1,820 if it operates a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared pursuant to s. 186.901, F.S.,³ for such county.

¹ According to s. 561.01(4)(a), F.S., "alcoholic beverages" are defined as distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

² According to s. 561.01(14), F.S., "licensee" is defined as a legal or business entity, person, or persons that hold a license issued by the division and meets the qualifications set forth in s. 561.15, F.S.

³ Section 186.901, F.S., addresses "population census determination."

No alcoholic beverage license is currently issued to the Children's Museum of Tampa, Inc., a not-for-profit corporation.

Over time, similar legislation has been adopted for the following Tampa Bay area locations:

- the Museum of Science and Industry (MOSI);⁴
- the University Area Community Development Corporation (UACDC);⁵
- the Lowry Park Zoo;⁶ and
- the Tampa Bay History Center.⁷

Effect of Proposed Changes

Notwithstanding the limitations contained in the Beverage Law, this bill authorizes the Division to issue a special alcoholic beverage license for use within the Children's Museum of Tampa, Inc., (Museum) and on its adjoining grounds.

The bill provides that the Museum must pay the applicable license fee provided in s. 565.02, F.S., and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises.

Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises. However, upon termination of a transferee's authorization or contract, the license automatically reverts to the Museum by operation of law.

According to the University of Florida's Bureau of Economic and Business Research (BEBR), the April 1, 2009, population estimate for Hillsborough County is 1,196,892. Therefore, the license fee of \$1,820 listed in s. 565.02(1)(b), F.S., would apply to the Museum.

According to Museum representatives, the Museum "is now poised to take its next major step, which will result in a 53,000 square foot facility, serving the entire Tampa Bay region, and will be a major component of the community's cultural and educational offerings. In addition, the Museum has several areas inside the facility that have great potential as rental spaces for after-hours events. The ability to rent these areas to interested corporate, private, and not-for-profit groups will allow the Museum to have more earned revenue to implement and enhance program offerings. The ability to serve alcoholic beverages at after-hour events held at the Museum is a key factor to make our venue competitive with the other venue rentals in the Tampa Bay area."

This bill has an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1. Authorizes the Division to issue an alcoholic beverage license to the Museum in accordance with s. 561.17, F.S., upon application and payment of the appropriate license fee.

Section 2. Authorizes the sale of alcoholic beverages to be consumed on Museum premises; provides that the license may not permit the sale of alcoholic beverages in sealed containers for consumption off the premises.

⁴ Chapter 98-449, Laws of Florida.

⁵ Chapter 2003-355, Laws of Florida.

⁶ Chapter 94-464, Laws of Florida.

⁷ Chapter 2007-303, Laws of Florida.

Section 3. Authorizes the transfer of the license and provides for subsequent reversion of the license under certain circumstances.

Section 4. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2010.

WHERE? The *Tampa Tribune*, a daily newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder. In addition, the Museum would have the potential to increase facility rentals to generate revenue for its community programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The Division has indicated that the provisions of this bill will result in annual revenues of \$1,820 to the agency. In addition, the Division has indicated that it can handle the provisions of this bill with existing resources.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.17, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute.

This amendment deleted language allowing the removal of opened, partially consumed containers of alcoholic beverages from museum premises. This language is inconsistent with local ordinances, so it was deleted to avoid a conflict between state and local laws.

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.