

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1625 Brevard County

SPONSOR(S): Workman

TIED BILLS: **IDEN./SIM. BILLS:**

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|--|---------------|----------------|-----------------------|
| 1) | Military & Local Affairs Policy Committee | 13 Y, 1 N | Tecler | Hoagland |
| 2) | Insurance, Business & Financial Affairs Policy Committee | 14 Y, 0 N | Livingston | Cooper |
| 3) | Economic Development & Community Affairs Policy Council | 12 Y, 0 N | Tecler | Tinker |
| 4) | | | | |
| 5) | | | | |

SUMMARY ANALYSIS

The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (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 and the state "sales tax" is collected at the retail level.

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 to the East Coast Zoological Society of Florida, Inc., (the Corporation) for use solely within the Brevard Zoo.

The bill requires the Corporation to pay the applicable license fee provided in s. 565.02, F.S.

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

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

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 within existing resources.

This bill has an effective date of upon becoming law.

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.

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.

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.

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.

No alcoholic beverage license is currently issued to the East Coast Zoological Society of Florida, Inc., a not-for-profit corporation.

Effect of Proposed Changes

Notwithstanding the limitations contained in the Beverage Law, this bill authorizes the Division to issue a special alcoholic beverage license to the East Coast Zoological Society of Florida, Inc., (the Corporation) for use solely within the Brevard Zoo.

The bill requires the Corporation to pay the applicable license fee provided in s. 565.02, F.S.

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

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

According to the Office of Economic and Demographic Research, the 2009 population estimate for Brevard County is 555,657. Therefore, the license fee of \$1,820 listed in s. 565.02(1)(b), F.S., would apply to the Corporation.

B. SECTION DIRECTORY:

Section 1. Authorizes the Division to issue an alcoholic beverage license to the East Coast Zoological Society of Florida, Inc. 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 the premises of the Brevard Zoo. The authorized license prohibits the sale of alcoholic beverages in sealed containers for consumption outside the premises.

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? February 3, 2010.

WHERE? The Florida Today, a daily newspaper of general circulation published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

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

IF YES, WHEN?

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.

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 within 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