

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4213 Liquor

SPONSOR(S): Sands and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee		Morton	Creamer
2) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 4213 repeals language in the Beverage Law that prohibits the sale, processing, or consumption of distilled spirits containing more than 153 proof.

The bill has an indeterminate insignificant positive impact on state trust funds.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (ABT), within the Department of Business and Professional Regulation, is responsible for licensing the alcoholic beverage and tobacco industries, for collection and auditing of taxes and fees paid by the licensees, and for enforcing the laws and regulations of the alcoholic beverage and tobacco industries, pursuant to Chapter 210, Chapters 561-565 and Chapters 567-569 of Florida Statutes.

These responsibilities and duties include licensing businesses, conducting criminal and administrative investigations; conducting audits, inventories and tax assessments; seizing non-tax paid alcoholic beverages and tobacco products; imposing penalties for violations; providing state resources to local governments to address alcoholic beverage and tobacco concerns; and encouraging licensees to properly operate their businesses. The responsibilities are carried out through three bureaus within the division:

- The Bureau of Licensing;
- The Bureau of Auditing; and
- The Bureau of Law Enforcement.

Proof – Alcohol Content of Distilled Spirits

Proof refers to twice the percentage of alcohol by volume at 60° Fahrenheit (e.g., 80 proof = 40% alcohol by volume). Section 565.07, F.S., prohibits the production, sale or consumption of distilled spirits that are greater than 153 proof.

This includes the production, sale and consumption of high-proof liquor, like Everclear, which is available for sale in other states. Several states, like Florida, ban the sale of Everclear, an inexpensive 190-proof liquor, popular at college campuses.¹

While the prohibition also applies to moonshine, or distilled spirits made in unlicensed stills, there are other applicable prohibitions on its possession or unlicensed sale.²

The prohibition also bans the production or sale of ethanol, which has uses as an industrial solvent and fuel alternative.

Proposed Changes

The bill repeals language in the beverage law that prohibits the sale, processing, or consumption of distilled spirits containing more than 153 proof.

B. SECTION DIRECTORY:

Section 1. Repeals s. 564.07, F.S., relating to the prohibition against the processing, sale, or consumption of certain high-proof distilled spirits; and

Section 2. Provides an effective date.

¹ “State liquor stores ban grain alcohol,” Associated Press (January 2011), *available at* http://www.heraldsun.com/view/full_story/10490646/article-State-liquor-stores--ban-grain-alcohol-?instance=homesixthleft.

² *See, e.g.,* s. 562.451, F.S., prohibiting the possession of more than 1 gallon of moonshine whiskey.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There would be a positive, but minimal increase in revenue from brand registrations. Although Everclear was the only liquor discovered during research that was greater than 153 proof, there may be additional brands that exceed 153 proof. In addition, pursuant to the bill's provisions Florida distillers would be able to process new brands of high proof liquor, therefore the number of new brands registrations for the high proof liquors is unknown. However, for each additional brand registration the state would receive \$30.

2. Expenditures:

According to DBPR, there may be a minimal increase in workload, but could be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If additional distillers chose to process high proof spirits, supply would increase, and potentially the prices would decrease in order to be competitive.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES