

By Senator Bennett

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1                   A bill to be entitled  
2           An act relating to the Beverage Law; amending s.  
3           561.29, F.S.; revising the grounds for revocation or  
4           suspension of licenses relating to failure to maintain  
5           the licensed premises as required; revising  
6           requirements with respect to inactive licenses;  
7           providing requirements for extension of the time to  
8           reactivate an inactive license; providing an effective  
9           date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Paragraphs (h) through (k) of subsection (1) of  
14           section 561.29, Florida Statutes, are amended to read:

15           561.29 Revocation and suspension of license; power to  
16           subpoena.—

17           (1) The division is given full power and authority to  
18           revoke or suspend the license of any person holding a license  
19           under the Beverage Law, when it is determined or found by the  
20           division upon sufficient cause appearing of:

21           (h) Failure by the holder of any license under s. 561.20(1)  
22           to maintain the licensed premises as provided in this paragraph:

23           1. For licenses issued on or before September 30, 1988, in  
24           ~~an active manner in which~~ the licensed premises must be are open  
25           for the bona fide sale of authorized alcoholic beverages during  
26           regular business hours of at least 6 hours a day for a period of  
27           120 days or more during any 12-month period commencing 18 months  
28           after the acquisition of the license by the licensee, ~~regardless~~  
29           ~~of the date the license was originally issued. Every licensee~~

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30 ~~must notify the division in writing of any period during which~~  
31 ~~his or her license is inactive and place the physical license~~  
32 ~~with the division to be held in an inactive status. The division~~  
33 ~~may waive or extend the requirement of this section upon the~~  
34 ~~finding of hardship, including the purchase of the license in~~  
35 ~~order to transfer it to a newly constructed or remodeled~~  
36 ~~location. However, during such closed period, the licensee shall~~  
37 ~~make reasonable efforts toward restoring the license to active~~  
38 ~~status. This paragraph shall apply to all annual license periods~~  
39 ~~commencing on or after July 1, 1981, but shall not apply to~~  
40 ~~licenses issued after September 30, 1988.~~

41 2.(i) For licenses issued ~~Failure of any licensee issued a~~  
42 ~~new or transfer license after September 30, 1988, the licensed~~  
43 premises must be under s. 561.20(1) to maintain the licensed  
44 ~~premises in an active manner in which the licensed premises are~~  
45 open for business to the public for the bona fide retail sale of  
46 authorized alcoholic beverages during regular and reasonable  
47 business hours for at least 8 hours a day for a period of 210  
48 days or more during any 12-month period commencing 6 months  
49 after the acquisition of the license by the licensee.

50 3. It is the intent of this act ~~that for purposes of~~  
51 ~~compliance with this paragraph that,~~ a licensee shall operate  
52 the licensed premises in a manner so as to maximize sales and  
53 tax revenues thereon; this includes maintaining a reasonable  
54 inventory of merchandise, including authorized alcoholic  
55 beverages, and the use of good business practices to achieve the  
56 intent of this law. Any attempt by a licensee to circumvent the  
57 intent of this law shall be grounds for revocation or suspension  
58 of the alcoholic beverage license.

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59       4. A licensee must, within 45 days after his or her license  
60 becomes inactive, notify the division in writing that the  
61 license is inactive and place the physical license with the  
62 division to be held in an inactive status. To reactivate the  
63 license, the licensee must apply to the division for  
64 reactivation within 12 months after the license is placed in  
65 inactive status.

66       5. The division shall grant an extension to a licensee who  
67 requests that his or her license remain inactive for longer than  
68 12 months and can demonstrate to the division that:

69           a. The value of the license is less than the licensee's  
70 original cost of the license;

71           b. The licensee is actively attempting to sell the license,  
72 as evidenced by a formal written agreement with a broker or by  
73 regular advertisement in a periodical of general circulation or  
74 an industry publication;

75           c. Corporate approval, if applicable, is pending for  
76 activation of the license at a new location;

77           d. Activation is pending a governmental approval of a new  
78 site pursuant to special exception, zoning, variance,  
79 environmental approval, or comprehensive plan amendment;

80           e. Negotiation of a lease or purchase of a building or land  
81 is pending; ~~The division may, upon written request of the~~  
82 licensee, give a written waiver of this requirement for a period  
83 not to exceed 12 months in cases where the licensee demonstrates  
84 that

85           f. The licensed premises has been physically destroyed  
86 through no fault of the licensee; ~~when~~

87           g. The licensee has suffered an incapacitating illness or

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88 injury which is likely to be prolonged;~~;~~ or ~~when~~

89 h. The licensed premises has been prohibited from making  
90 sales as a result of any action of any court of competent  
91 jurisdiction.

92  
93 An extension granted pursuant to this subparagraph shall be  
94 continued upon subsequent written request showing that the  
95 conditions for the extension continue through no fault of the  
96 licensee, and, if applicable, substantial progress has been made  
97 toward correcting the conditions. ~~Any waiver given pursuant to~~  
98 ~~this subsection may be continued upon subsequent written request~~  
99 ~~showing that substantial progress has been made toward restoring~~  
100 ~~the licensed premises to a condition suitable for the resumption~~  
101 ~~of sales or toward allowing for a court having jurisdiction over~~  
102 ~~the premises to release said jurisdiction, or that an~~  
103 ~~incapacitating illness or injury continues to exist. However, in~~  
104 ~~no event may the waivers necessitated by any one occurrence~~  
105 ~~cumulatively total more than 24 months. Every licensee shall~~  
106 ~~notify the division in writing of any period during which his or~~  
107 ~~her license is inactive and place the physical license with the~~  
108 ~~division to be held in an inactive status.~~

109 (i)~~(j)~~ Failure of any licensee issued a license under s.  
110 561.20(1) to maintain records of all monthly sales and all  
111 monthly purchases of alcoholic beverages and to produce such  
112 records for inspection by any division employee within 10 days  
113 after ~~of~~ written request therefor.

114 (j)~~(k)~~ Failure by the holder of any license issued under  
115 the Beverage Law to comply with a stipulation, consent order, or  
116 final order.

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Section 2. This act shall take effect upon becoming a law.