

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4079 Alcoholic Beverages

SPONSOR(S): Workman

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	13 Y, 0 N	Morton	Creamer
2) Economic Affairs Committee	16 Y, 0 N	Morton	Tinker

SUMMARY ANALYSIS

The bill repeals a prohibition on the possession, sale, disposal or transportation of alcoholic beverage containers, currently a 3rd degree felony violation. The bill is not anticipated to have a fiscal impact on state funds.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The possession and sale of alcoholic beverages has been strictly enforced in Florida since the 1930s. As part of Florida's Beverage Law, certain acts are prohibited as 3rd degree felonies. These include:

- Possessing any cans, jugs, bottles, or other containers which are being used, or are intended to be used, or have been used to bottle alcoholic beverages.
- Selling or disposing of such containers.
- Transporting such containers.

The statute contains an exemption from the prohibitions for licensed manufacturers.

Although this law has been used in the past to combat the illegal trafficking of moonshine,¹ the statutory language is broad enough to prohibit the possession of old beer or liquor bottles.

Proposed Changes

The bill repeals the prohibition on the possession or transportation of alcoholic beverage containers.

B. SECTION DIRECTORY:

Section 1 repeals s. 562.34, F.S., relating to the seizure and forfeiture of alcoholic beverage containers.

Section 2 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

¹ See, e.g., U.S. v. McKinnon, 426 F.2d 845 (5th Cir. 1970).

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.