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LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: FC   | . |       |
| 03/22/2013 | . |       |
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The Committee on Regulated Industries (Sachs) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (9) of section 316.1936, Florida Statutes, is amended to read:

316.1936 Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.—

(9) A bottle of wine that has been resealed and is transported pursuant to s. 564.09 or a 64-ounce container of malt beverage that has been refilled and resealed and is transported pursuant to s. 563.0205 is not an open container



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13 under the provisions of this section.

14 Section 2. Subsections (22) through (24) are added to  
15 section 561.01, Florida Statutes, to read:

16 561.01 Definitions.—As used in the Beverage Law:

17 (22) "Package store" means a licensed place of business in  
18 which alcoholic beverages are sold in sealed containers as  
19 received from the distributor for consumption off the premises  
20 only.

21 (23) "Sales by the package" or "package sales" means sales  
22 of sealed containers for consumption off the premises.

23 (24) "Sealed container" means a container that is factory  
24 sealed by a licensed manufacturer and has not been opened.

25 Section 3. Section 561.221, Florida Statutes, is amended to  
26 read:

27 561.221 Licensing of manufacturers and distributors as  
28 vendors and of vendors as manufacturers; conditions and  
29 limitations.—

30 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
31 other provision of the Beverage Law prohibits the ownership,  
32 management, operation, or control of not more than three  
33 vendor's licenses for the sale of alcoholic beverages by a  
34 manufacturer of wine who is licensed and engaged in the  
35 manufacture of wine in this state, even if such manufacturer is  
36 also licensed as a distributor; provided that no such vendor's  
37 license shall be owned, managed, operated, or controlled by any  
38 licensed manufacturer of wine unless the licensed premises of  
39 the vendor are situated on property contiguous to the  
40 manufacturing premises of the licensed manufacturer of wine.

41 (b) The Division of Alcoholic Beverages and Tobacco shall



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42 issue permits to a certified Florida Farm Winery to conduct  
43 tasting and sales of wine produced by certified Florida Farm  
44 Wineries at Florida fairs, trade shows, expositions, and  
45 festivals. The certified Florida Farm Winery shall pay all entry  
46 fees and shall have a winery representative present during the  
47 event. The permit is limited to the length of the event.

48 (2) Notwithstanding s. 561.22, s. 561.42, or any other  
49 provision of the Beverage Law, the division may ~~is authorized to~~  
50 issue vendor's licenses to a manufacturer of malt beverages,  
51 ~~even if such manufacturer is also licensed as a distributor,~~ for  
52 the sale of alcoholic beverages, whether by the drink or in  
53 sealed containers, on property consisting of a single complex,  
54 for consumption only on the vendor's licensed premises within  
55 such complex if all of the following requirements are met:

56 (a) The complex comprises at least 25 enclosed acres of  
57 land.

58 (b) The enclosed area has a controlled entrance and exit.

59 (c) The property has permanent exhibitions and a variety of  
60 recreational activities.

61 (d) At least 1 million visitors annually pay admission fees  
62 to the complex.

63 (e) The complex includes, ~~which property shall include~~ a  
64 brewery and such other structures ~~that~~ ~~which~~ promote the brewery  
65 and the tourist industry of the state. ~~However, such~~

66 (f) The property is not ~~may be~~ divided by ~~no~~ more than one  
67 public street or highway.

68 (3) (a) Notwithstanding s. 561.22, s. 561.42, or any other  
69 provision ~~provisions~~ of the Beverage Law, any vendor licensed in  
70 this state may be licensed as a manufacturer of malt beverages



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71 and referred to as a brewpub upon a finding by the division  
72 that:

73 1. The vendor will be engaged in brewing malt beverages at  
74 a single location and in an amount that ~~which~~ will not exceed  
75 5,000 ~~10,000~~ kegs, as defined in s. 563.01, per year. ~~For~~  
76 ~~purposes of this subsection, the term "keg" means 15.5 gallons.~~

77 2. The malt beverages so brewed will be sold to consumers  
78 for consumption on the vendor's licensed premises or on  
79 contiguous licensed premises owned by the vendor.

80 (b) Any vendor that ~~which~~ is also licensed as a  
81 manufacturer of malt beverages under ~~pursuant to~~ this subsection  
82 is ~~shall be~~ responsible for applicable reports pursuant to ss.  
83 561.50 and 561.55 with respect to the amount of beverage  
84 manufactured each month and shall pay applicable excise taxes  
85 thereon to the division by the 10th day of each month for the  
86 previous month.

87 (c) It is ~~shall be~~ unlawful for a ~~any~~ licensed distributor  
88 of malt beverages or an ~~any~~ officer, agent, or other  
89 representative thereof to discourage or prohibit a ~~any~~ vendor  
90 licensed as a manufacturer under this subsection from offering  
91 malt beverages brewed for consumption on the licensed premises  
92 of the vendor.

93 (d) It is ~~shall be~~ unlawful for a ~~any~~ manufacturer of malt  
94 beverages or an ~~any~~ officer, agent, or other representative  
95 thereof to take any action to discourage or prohibit a ~~any~~  
96 distributor of the manufacturer's product from distributing such  
97 product to a licensed vendor that ~~which~~ is also licensed as a  
98 manufacturer of malt beverages under ~~pursuant to~~ this  
99 subsection.



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100           (4) Notwithstanding s. 561.22, s. 561.42, or any other  
101 provision of the Beverage Law, the division may issue vendor's  
102 licenses to a manufacturer of malt beverages licensed and  
103 operating in this state as a startup brewery, as defined in s.  
104 563.01, for the sale of malt beverages pursuant to s. 563.0205.

105           Section 4. Subsection (1) of section 561.5101, Florida  
106 Statutes, is amended to read:

107           561.5101 Come-to-rest requirement; exceptions; penalties.—

108           (1) For purposes of inspection and tax-revenue control, all  
109 malt beverages, except those manufactured and sold under a  
110 vendor's license issued pursuant to s. 561.221(3), must come to  
111 rest at the licensed premises of an alcoholic beverage  
112 wholesaler in this state before being sold to a vendor by the  
113 wholesaler. The prohibition contained in this subsection does  
114 not apply to the shipment of malt beverages commonly known as  
115 private labels. The prohibition contained in this subsection  
116 does shall not prevent a manufacturer from shipping malt  
117 beverages for storage at a bonded warehouse facility if,  
118 ~~provided that~~ such malt beverages are distributed as provided in  
119 this subsection or to an out-of-state entity.

120           Section 5. Section 563.01, Florida Statutes, is amended to  
121 read:

122           563.01 Definitions ~~Definition.~~—As used in this chapter, the  
123 term: terms

124           (1) "Beer" or and "malt beverage" means a mean-all brewed  
125 beverage beverages containing malt.

126           (2) "Brewery" means a manufacturer of malt beverages.

127           (3) "Brewpub" means a vendor licensed in this state to sell  
128 alcoholic beverages which is also licensed as a manufacturer of



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129 malt beverages pursuant to s. 561.221(3).

130 (4) "Keg" means 15.5 gallons.

131 (5) "Startup brewery" means a brewery licensed and  
132 operating in this state which produces no more than 2,500 kegs  
133 of malt beverages on its premises per year.

134 Section 6. Subsection (2) of section 563.02, Florida  
135 Statutes, is amended to read:

136 563.02 License fees; vendors; manufacturers and  
137 distributors.—

138 (2) A Each manufacturer engaged in the business of brewing  
139 only malt beverages which is not a brewpub must shall pay an  
140 annual state license tax of \$3,000 for each plant or branch he  
141 or she operates may operate. A However, Each manufacturer  
142 engaged in the business of brewing less than 10,000 kegs of malt  
143 beverages as a brewpub must annually for consumption on the  
144 premises pursuant to s. 561.221(3) shall pay an annual state  
145 license tax of \$500 for each plant or branch he or she operates.

146 Section 7. Section 563.0205, Florida Statutes, is created  
147 to read:

148 563.0205 Startup breweries.—

149 (1) A startup brewery licensed and operating in this state  
150 which is also licensed as a vendor under s. 561.221(4) may sell  
151 malt beverages produced on its premises:

152 (a) By the drink for on-premises consumption; or

153 (b) In a 64-ounce sealed container for off-premises  
154 consumption if the container was:

155 1. Sealed at the factory; or

156 2. Refilled and resealed on the premises of the vendor as  
157 securely as the original seal, but it must be visible that the



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158 seal has been broken and the container opened or tampered with.

159 (2) Sales described in subsection (1) are authorized only  
160 on private property contiguous to the brewery premises licensed  
161 in this state and included on the sketch or diagram defining the  
162 licensed premises submitted with the brewery's application for a  
163 manufacturer's license. All sketch or diagram revisions by the  
164 brewery require approval from the Division of Alcoholic  
165 Beverages and Tobacco of the Department of Business and  
166 Professional Regulation verifying that all malt beverage retail  
167 locations operated by the brewery are owned or leased by the  
168 brewery and are on property contiguous to the brewery's  
169 production building in this state.

170 (3) A startup brewery may not sell malt beverages as a  
171 vendor under this section except in face-to-face sales  
172 transactions with consumers who purchase for personal use rather  
173 than for resale.

174 (4) A startup brewery shall report to the Division of  
175 Alcoholic Beverages and Tobacco of the Department of Business  
176 and Professional Regulation within 5 days after producing more  
177 than 2,500 kegs of malt beverages on its premises in a year.  
178 After the brewery reaches this production limitation, it ceases  
179 to be a startup brewery, and any sales to consumers at the  
180 brewery's licensed premises for off-premises consumption are  
181 prohibited upon the expiration of its manufacturer's license.

182 (5) A startup brewery is responsible for applicable reports  
183 pursuant to ss. 561.50 and 561.55 with respect to the amount of  
184 malt beverages manufactured each month, and it must pay  
185 applicable excise taxes thereon to the Division of Alcoholic  
186 Beverages and Tobacco of the Department of Business and



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187 Professional Regulation by the 10th day of each month for the  
188 previous month. A startup brewery shall also provide the  
189 Division of Alcoholic Beverages and Tobacco of the Department of  
190 Business and Professional Regulation a copy of each federal  
191 excise tax report that it submits to the Federal Government, if  
192 any, with all supporting documents during the reporting period  
193 under subsection (4).

194 (6) A startup brewery may not ship, arrange to ship, or  
195 deliver any of its malt beverages to consumers within the state.  
196 However, a startup brewery may ship, arrange to ship, or deliver  
197 its malt beverages to wholesale distributors of malt beverages,  
198 state or federal bonded warehouses, or exporters.

199 (7) The Division of Alcoholic Beverages and Tobacco of the  
200 Department of Business and Professional Regulation may adopt  
201 rules to administer this section.

202 Section 8. Subsection (14) of section 563.022, Florida  
203 Statutes, is amended to read:

204 563.022 Relations between beer distributors and  
205 manufacturers.—

206 (14) MANUFACTURER; PROHIBITED INTERESTS.—

207 (a) This subsection applies to:

208 1. A manufacturer;

209 2. Any officer, director, agent, or employee of a  
210 manufacturer; or

211 3. An affiliate of any manufacturer, regardless of whether  
212 the affiliation is corporate or by management, direction, or  
213 control.

214 (b) Except as provided in paragraph (c), an ~~no~~ entity or  
215 person specified in paragraph (a) may not have an interest in





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216 the license, business, assets, or corporate stock of a licensed  
217 distributor nor may ~~shall~~ such entity sell directly to any  
218 vendor in this state other than to vendors who are licensed  
219 pursuant to s. 561.221(2), (3), or (4) ~~561.221(2)~~.

220 (c) Any entity described in paragraph (a) may financially  
221 assist a proposed distributor in acquiring ownership of the  
222 distributorship through participation in a limited partnership  
223 arrangement in which the entity described in paragraph (a) is a  
224 limited partner and the proposed distributor seeking to acquire  
225 ownership of the distributorship is the general partner. Such  
226 limited partnership arrangements may exist for no longer than 8  
227 years from their creation and may ~~shall~~ not be extended or  
228 renewed by means of a transfer of full ownership to an entity  
229 described in paragraph (a) followed by the creation of a new  
230 limited partnership or by any other means. In any such  
231 arrangement for financial assistance, the federal basic permit  
232 and distributor's license issued by the division shall be issued  
233 in the name of the distributor and not in the name of an entity  
234 described in paragraph (a). If, after the creation of a limited  
235 partnership pursuant to this paragraph, an entity described in  
236 paragraph (a) acquires title to the distributorship that ~~which~~  
237 was the subject of the limited partnership, the entity described  
238 in paragraph (a) shall divest itself of the distributorship  
239 within 180 days, and the distributorship shall be ineligible for  
240 limited partnership financing for 20 years thereafter. An ~~No~~  
241 entity described in paragraph (a) may not ~~shall~~ enter into a  
242 limited partnership arrangement with a licensed distributor  
243 whose distributorship existed and was operated prior to the  
244 creation of such limited partnership arrangement.



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245           (d) ~~Nothing in~~ The Beverage Law may not ~~shall~~ be construed  
246 to prohibit a manufacturer from shipping products to or between  
247 its breweries without a distributor's license.

248           (e) Notwithstanding ~~the provisions of~~ paragraph (b), any  
249 entity named in paragraph (a) may have an interest in the  
250 license, business, assets, or corporate stock of a licensed  
251 distributor for a maximum of 180 consecutive days as the result  
252 of a judgment of foreclosure against the distributor or for 180  
253 consecutive days after acquiring title pursuant to the written  
254 request of the licensed distributor. Under either of these  
255 circumstances, manufacturer ownership of an interest in the  
256 license, business, assets, or corporate stock of a licensed  
257 distributor shall only be for 180 days and only for the purpose  
258 of facilitating an orderly transfer of the distributorship to an  
259 owner not affiliated with a manufacturer.

260           (f) Notwithstanding ~~the provisions of~~ paragraph (b), any  
261 entity named in paragraph (a) may have a security interest in  
262 the inventory or property of its licensed distributors to secure  
263 payment for the said inventory or other loans for other  
264 purposes.

265           Section 9. Subsection (6) of section 563.06, Florida  
266 Statutes, is amended, and present subsection (7) of that section  
267 is amended and renumbered as subsection (8), to read:

268           563.06 Malt beverages; imprint on individual container;  
269 size of containers; exemptions.-

270           (6) All malt beverages packaged in individual containers  
271 sold or offered for sale by vendors at retail in this state  
272 shall be in individual containers containing 64 ounces or  
273 smaller containers containing no more than 32 ounces of such



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274 malt beverages. ~~; provided, however, that nothing contained in~~  
275 (7) This section does not shall affect malt beverages  
276 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual  
277 container containing 1 gallon or more of such malt beverage  
278 regardless of individual container type.

279 (8) ~~(7)~~ Any person, firm, or corporation, or any of its  
280 agents, officers, or employees which violates, violating any of  
281 the provisions of this section commits, shall be guilty of a  
282 misdemeanor of the first degree, punishable as provided in s.  
283 775.082 or s. 775.083; and the license, if any, is shall be  
284 subject to revocation or suspension by the division.

285 Section 10. A manufacturer of malt beverages which holds  
286 active licenses as a manufacturer and as a vendor which were  
287 issued under the Beverage Law before October 1, 2013, and whose  
288 terms have not expired as of that date may continue to operate  
289 under those licenses until the term of the license as a  
290 manufacturer expires.

291 Section 11. This act shall take effect October 1, 2013.

292  
293 ===== T I T L E A M E N D M E N T =====

294 And the title is amended as follows:

295 Delete everything before the enacting clause  
296 and insert:

297 A bill to be entitled  
298 An act relating to alcoholic beverages; amending s.  
299 316.1936, F.S.; exempting certain resealed containers  
300 of malt beverages from open container prohibitions;  
301 amending s. 561.01, F.S.; providing definitions  
302 relating to package sales; amending s. 561.221, F.S.;



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303       revising provisions relating to the licensing of  
304       manufacturers of malt beverages as vendors and of  
305       vendors as manufacturers of malt beverages;  
306       authorizing the issuance of vendor's licenses to  
307       manufacturers of malt beverages licensed as startup  
308       breweries; amending s. 561.5101, F.S.; revising  
309       exceptions to the come-to-rest requirement; amending  
310       s. 563.01, F.S.; providing definitions relating to  
311       regulation of the manufacture, distribution, and sale  
312       of beer or malt beverages; amending s. 563.02, F.S.;  
313       revising requirements for license fees based on  
314       whether a manufacturer of malt beverages operates as a  
315       brewpub; creating s. 563.0205, F.S.; providing  
316       requirements for startup breweries to manufacture and  
317       sell their products; providing reporting requirements  
318       and requirements relating to payment of state and  
319       federal excise taxes on malt beverages; providing  
320       rulemaking authority; amending s. 563.022, F.S.;  
321       revising exceptions relating to prohibited interests  
322       for manufacturers of malt beverages; conforming a  
323       cross-reference to changes made by the act; amending  
324       s. 563.06, F.S.; authorizing the sale of malt  
325       beverages at retail in containers of a specified size;  
326       providing for applicability relating to certain  
327       manufacturers licensed before the effective date of  
328       this act; providing an effective date.