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CS/CS/HB 347, Engrossed 1

2013 Legislature

1
2 An act relating to alcoholic beverages; amending s.
3 565.03, F.S.; providing definitions; revising
4 provisions with respect to the licensure and operation
5 of distilleries; providing requirements for craft
6 distilleries; providing for the sale of distilled
7 spirits by licensed distilleries under certain
8 conditions; providing reporting requirements;
9 prohibiting the shipment of certain distilled spirits;
10 prohibiting the transfer of a distillery license under
11 certain conditions; prohibiting a craft distillery
12 from having its ownership affiliated with another
13 distillery under certain conditions; providing
14 requirements relating to the payment of taxes;
15 providing for applicability; providing rulemaking
16 authority; amending s. 567.01, F.S.; providing that a
17 county commission may order an election on the sale of
18 alcoholic beverages for consumption on premise under
19 certain conditions; amending ss. 561.14, 567.06, and
20 567.07, F.S.; conforming cross-references; providing
21 legislative intent with respect to the severability or
22 nonseverability of specified amendments made by the
23 act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 565.03, Florida Statutes, is amended to
28 read:



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29 565.03 License fees; manufacturers, distributors, brokers,
30 sales agents, and importers of alcoholic beverages; vendor
31 licenses and fees; craft distilleries.-

32 (1) As used in this section, the term:

33 (a) "Craft distillery" means a licensed distillery that
34 produces 75,000 or fewer gallons per calendar year of distilled
35 spirits on its premises and has notified the division in writing
36 of its decision to qualify as a craft distillery.

37 (b) "Distillery" means a ~~Each liquor~~ manufacturer of
38 distilled spirits.

39 (2) (a) A distillery authorized to do business under the
40 Beverage Law shall pay an annual state license tax for each
41 plant or branch operating ~~he or she operates~~ in the state, as
42 follows:

43 1. If engaged in the business of manufacturing distilled
44 spirits ~~distilling spirituous liquors and nothing else~~, a state
45 license tax of \$4,000.

46 2. If engaged in the business of rectifying and blending
47 spirituous liquors and nothing else, a state license tax of
48 \$4,000.

49 (b) Persons licensed under this section who are ~~hereunder~~
50 in the business of distilling spirituous liquors may also engage
51 in the business of rectifying and blending spirituous liquors
52 without the payment of an additional license tax.

53 (c) A craft distillery licensed under this section may
54 sell to consumers, at its souvenir gift shop, spirits distilled
55 on its premises in this state in factory-sealed containers that
56 are filled at the distillery for off-premises consumption. Such



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57 sales are authorized only on private property contiguous to the
58 licensed distillery premises in this state and included on the
59 sketch or diagram defining the licensed premises submitted with
60 the distillery's license application. All sketch or diagram
61 revisions by the distillery shall require the division's
62 approval verifying that the souvenir gift shop location operated
63 by the licensed distillery are owned or leased by the distillery
64 and on property contiguous to the distillery's production
65 building in this state. A craft distillery or licensed
66 distillery may not sell any factory-sealed individual containers
67 of spirits except in face-to-face sales transactions with
68 consumers who are making a purchase of two or fewer individual
69 containers, that comply with the container limits in s. 565.10,
70 per calendar year for the consumer's personal use and not for
71 resale and who are present at the distillery's licensed premises
72 in this state.

73 1. A craft distillery must report to the division within 5
74 days after it reaches the production limitations provided in
75 paragraph (1) (a). Any retail sales to consumers at the craft
76 distillery's licensed premises are prohibited beginning the day
77 after it reaches the production limitation.

78 2. A craft distillery may only ship, arrange to ship, or
79 deliver any of its distilled spirits to consumers within the
80 state in a face-to-face transaction at the distillery property.
81 However, a craft distiller licensed under this section may ship,
82 arrange to ship, or deliver such spirits to manufacturers of
83 distilled spirits, wholesale distributors of distilled spirits,
84 state or federal bonded warehouses, and exporters.



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85 3. Except as provided in subparagraph 4., it is unlawful
86 to transfer a distillery license for a distillery that produces
87 75,000 or fewer gallons per calendar year of distilled spirits
88 on its premises or any ownership interest in such license to an
89 individual or entity that has a direct or indirect ownership
90 interest in any distillery licensed in this state; another
91 state, territory, or country; or by the United States government
92 to manufacture, blend, or rectify distilled spirits for beverage
93 purposes.

94 4. A craft distillery shall not have its ownership
95 affiliated with another distillery, unless such distillery
96 produces 75,000 or fewer gallons per calendar year of distilled
97 spirits on its premises.

98 (3)-(2) Distributors authorized to do business under the
99 Beverage Law, unless otherwise provided, shall pay a state
100 license tax of \$4,000 for each and every establishment or branch
101 they may operate or conduct in the state. However, in counties
102 having a population of 15,000 or less according to the latest
103 state or federal census, the state license tax for a restricted
104 license shall be \$1,000, but the holder of such a license shall
105 be permitted to sell only to vendors and distributors licensed
106 in the same county, and such license shall contain such
107 restrictions. In such counties, licenses without such
108 restrictions may be obtained as in other counties, but the tax
109 for a license without such restrictions shall be the same as in
110 other counties. Warehouses of a licensed distributor used solely
111 for storage and located in the county in which the license is
112 issued to such distributor shall not be construed to be separate



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113 establishments or branches.

114 ~~(4)(3)~~ Each broker or sales agent and each importer of
115 alcoholic beverages, as defined in s. 561.14(4) and (5),
116 respectively, shall pay an annual state license tax of \$500.

117 (5) A craft distillery making sales under paragraph (2)(c)
118 is responsible for submitting any beverages excise taxes under
119 the Beverage Law in its monthly report to the division with any
120 tax payments due to the state.

121 (6) The division may adopt rules to administer this
122 section.

123 Section 2. Section 567.01, Florida Statutes, is amended to
124 read:

125 567.01 Petition, order, notice of election.—

126 (1) The board of county commissioners of each county shall
127 order an election to decide whether the sale of intoxicating
128 liquors, wines, or beer shall be prohibited or permitted in that
129 ~~said county and if not prohibited, to decide the method of sale,~~
130 upon the presentation to said board at a regular or special
131 meeting, of a written application asking for such a
132 determination in the county in which said application is made
133 signed by one-fourth of the registered voters of the county. The
134 signature of each registered voter shall be personally signed to
135 such application; provided, however, a copy of said petition
136 shall be dated and filed with the clerk of the circuit court of
137 the county in which such election is to be held prior to
138 procuring the signature of any registered voter thereon; and
139 such petition must be completed and presented to the board of
140 county commissioners within 120 days from the date said copy of



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141 | said petition is originally filed with the clerk of the circuit
142 | court; and if not so done, said petition shall be held to be
143 | invalid.

144 | (2) The election so ordered shall be to decide ~~either:~~
145 | ~~(a)~~ whether the sale of intoxicating liquors, wines, or
146 | beer shall be prohibited or permitted in said county, and to
147 | decide also whether such sale, if permitted by said election,
148 | shall be restricted to sales by the package. ~~as hereinafter~~
149 | ~~defined; or~~

150 | (3)~~(b)~~ After an a-prior election has authorized the such
151 | sale of intoxicating liquors, wines, or beer and has restricted
152 | the sales to by the package only, the board of county
153 | commissioners shall order an election to decide whether
154 | intoxicating liquors, wines, or beer shall be sold by the drink
155 | for consumption on premises as provided in s. 567.07(2)(c) by a
156 | majority vote of the board of county commissioners or when
157 | application is made signed by one-tenth of the registered voters
158 | of the county.

159 | (4)~~(3)~~ The term "Sales by the package" is defined to mean
160 | sales made in sealed containers, for consumption off the
161 | premises where sold.

162 | (5)~~(4)~~ Such an election shall not be ordered oftener than
163 | once every 2 years. All orders for such election shall be in
164 | writing and shall be entered upon the minutes of the board but
165 | this requirement shall be directory only.

166 | (6)~~(5)~~ Upon the making of the order for an election ~~as~~
167 | ~~aforsaid~~, the board shall cause its clerk to give at least 30
168 | days' notice of said election by publishing a copy of the order



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169 for election in one newspaper in each and every town in said
170 county in which a newspaper or newspapers be published, and if
171 no newspaper be published within the county, then by posting at
172 least 10 copies of said order in 10 of the most public places in
173 said county, one of which shall be the courthouse door. Proof of
174 publication or proof of posting shall be filed with the board
175 and shall be made as provided by ss. 49.10 and 49.11, for making
176 proof of publication and proof of posting incident to
177 constructive service of process, except that the provisions of
178 said sections for recording shall not apply. All proofs of
179 publication and of posting shall be entered upon the minutes of
180 the board, but this requirement shall be directory only.

181 (7)~~(6)~~ It is the purpose and intent of the Legislature
182 that the ~~such~~ election shall obviate the necessity for holding
183 two separate elections, except as provided in s. 567.07(2)(c),
184 by determining in one election:

185 (a) Whether the sale of intoxicating liquors, wines, or
186 beer shall be prohibited or permitted, and

187 (b) If such sales are determined to be permitted, to
188 further determine whether the sales so made shall be limited to
189 sales by the package as herein before defined, or whether sales
190 by the drink on the premises, as well as sales by the package,
191 may be permitted.

192
193 A majority of those legally voting at such election must cast
194 their votes for selling intoxicating liquors, wines, or beer in
195 order that the results of the election on the second question
196 shall be effective and binding.



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197 Section 3. Subsection (1) of section 561.14, Florida
 198 Statutes, is amended to read:

199 561.14 License and registration classification.—Licenses
 200 and registrations referred to in the Beverage Law shall be
 201 classified as follows:

202 (1) Manufacturers licensed to manufacture alcoholic
 203 beverages and distribute the same at wholesale to licensed
 204 distributors and to no one else within the state, unless
 205 authorized by statute. Persons engaged in the business of
 206 distilling, rectifying, or blending spirituous liquors licensed
 207 under s. 565.03(2) ~~565.03(1)(a)1. and (b)~~ shall sell and
 208 distribute such beverages at wholesale only to other
 209 manufacturers and to licensed distributors and to no one else
 210 within this state.

211 Section 4. Subsection (3) of section 567.06, Florida
 212 Statutes, is amended to read:

213 567.06 Form of ballot; canvassing votes.—

214 (3) However, for a local option election authorized by s.
 215 567.01(3) ~~567.01(2)(b)~~ on the sole question of whether
 216 intoxicating liquors, wines, or beer may be sold by the drink
 217 for consumption on premises, ballot instructions shall be
 218 presented in the following form:

219 INSTRUCTIONS: Local Option Election on the Following Question:
 220 THE QUESTION BEFORE THE ELECTORATE is to decide whether
 221 intoxicating liquors, wines, or beer, containing more than 6.243
 222 percent of alcohol by volume, may be sold by the drink for
 223 consumption on premises in () County, Florida.

224 For Sales by the Drink:



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225 followed by the word "yes" and also by the word "no," and shall
 226 be styled in such a manner that a "yes" vote will indicate
 227 approval of the question and a "no" vote will indicate
 228 rejection.

229 Section 5. Paragraph (c) of subsection (2) of section
 230 567.07, Florida Statutes, is amended to read:

231 567.07 Results of election.—

232 (2) If a majority of those legally voting at any such
 233 election cast their votes "For Selling Intoxicating Liquors,
 234 Wines, or Beer" on question number 1 and a majority of votes
 235 legally cast on question number 2 be cast "For Sales by the
 236 Package Only," then:

237 (c) After the expiration of 2 years, an election pursuant
 238 to s. 567.01(3) ~~567.01(2)(b)~~ may be held to determine the sole
 239 question of whether intoxicating liquors, wines, or beer may be
 240 sold by the drink for consumption on premises. If a majority of
 241 those legally voting cast their votes for selling intoxicating
 242 liquors, wines, or beer by the drink for consumption on
 243 premises, such alcoholic beverages may be sold as otherwise
 244 provided by law in that county until otherwise determined in an
 245 election, which shall not be held oftener than once every 2
 246 years. If a majority of those legally voting cast their vote
 247 against the sale of intoxicating liquors, wines, or beer by the
 248 drink for consumption on premises, sales by the package only
 249 shall continue.

250 Section 6. (1) The Legislature declares that it would not
 251 have enacted individually the amendments to ss. 565.03 and
 252 561.14, Florida Statutes, and expressly finds the amendments to



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253 those provisions not to be severable. If a court of competent
254 jurisdiction determines any provision of those sections as
255 amended by this act to be in conflict with any law of this
256 state, a federal law or regulation, the State Constitution, or
257 the United States Constitution, or to be otherwise invalid for
258 any reason, it is the intent of the Legislature that the
259 amendments to ss. 565.03 and 561.14, Florida Statutes, shall be
260 void, that such invalidity shall void only those changes made by
261 this act to ss. 565.03 and 561.14, Florida Statutes, and that no
262 other law be affected.

263 (2) If a provision of s. 567.01, s. 567.06, s. or 567.07,
264 Florida Statutes, as amended by this act, or if the application
265 of those sections as amended by this act to any person or
266 circumstance is held invalid, the invalidity does not affect
267 other provisions or applications of the act which can be given
268 effect without the invalid provision or application, and to this
269 end the amendments to ss. 567.01, 567.06, and 567.07, Florida
270 Statutes, are severable.

271 Section 7. This act shall take effect July 1, 2013.