

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 45	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Business & Professional Regulation Subcommittee; Hooper and others	114 Y's	0 N's
COMPANION BILLS:	(CS/CS/SB 372)	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 45 passed the House on May 1, 2013 as CS/CS/SB 372. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer). The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) is responsible for enforcing the provisions of the alcoholic beverage laws.

Current law authorizes retail vendors to transport alcoholic beverages from a distributor's place of business in permitted vehicles that are owned or leased by the vendor. The bill expands the delivery authority to include vehicles which are owned or leased by a person that has been identified on the vendor's beverage license application and is approved by the division. A vehicle permit must be obtained from the division to authorize the use of the vehicle by the vendor and by the designated driver to transport alcoholic beverages. The signature of the designated driver is required on the vehicle permit application.

A designated driver, with a valid vehicle permit, transporting alcoholic beverages is subject to the same conditions regarding inspection and search as is under current law. These conditions allow warrantless searches of the vehicle by authorized enforcement personnel.

The bill removes language which references the issuance of vehicle decals to be attached to the vehicle. Decals are no longer used by the division. However, the bill requires that the vehicle permit and the invoices or sales tickets for the purchased alcoholic beverages must be carried in the vehicle used by the vendor or the driver when alcoholic beverages are being transported. The bill continues to require the payment of the \$5 vehicle permit fee.

The bill is anticipated by the DBPR to cause a minimal, but indeterminate increase in state revenue due to the anticipated increase in the number of \$5 vehicle permits issued.

The bill was approved by the Governor on June 14, 2013, ch. 2013-170, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present situation

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer). The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those restrictions, s. 561.42, F.S., prohibits a manufacturer or distributor from having any financial interest, directly or indirectly, in the establishment or business of a retailer. Many restrictions apply to business and market activities between the three tiers.

Subsection 561.01(14), F.S., defines "licensee" to mean a legal or business entity, person, or persons that hold a license issued by the division. Subsection (20) defines "permit carrier" to mean a licensee authorized to make deliveries as provided in s. 561.57, F.S.

Subsection 561.57(1), F.S., specifies that vendors may make deliveries away from their places of business of sales actually made at the licensed place of business. Section 561.57(2), F.S., allows deliveries by a manufacturer, distributor, or vendor away from his or her place of business to be made only in vehicles which are owned or leased by the licensee.

Subsection 561.57(3), F.S., specifies that a retail vendor may transport alcoholic beverages that have been purchased from a distributor by the vendor from the place of business of the distributor to the vendor's licensed premises or the vendor's storage facility. A vehicle permit is required to be attached to the vendor's vehicle to authorize the use of the vehicle for transporting the beverages.

This subsection further specifies that by acceptance of an alcoholic beverage license and the use of the vendor's permitted vehicles, the licensee agrees that the vehicle may be inspected and searched without a search warrant, for the purpose of determining compliance with provisions of the alcoholic beverage laws. Warrantless searches are authorized for employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages.

The statute currently authorizes the division to issue vehicle permits or decals upon payment of a \$5 fee by the retail vendor. However, the division no longer issues decals for attachment to the vehicle but issues paper permits. Vehicle permit holders are required to keep the paper permits in their vehicles. A permit is valid and does not expire unless the vendor disposes of the vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division.

Various exemptions from the vehicle permit requirements are specified in s. 561.57, F.S. For example, licensed salespersons of wine and spirits on behalf of the distributor and common carriers are not required to have vehicle permits to transport alcoholic beverages.

Effect of changes

Current law authorizes retail vendors to transport alcoholic beverages from a distributor's place of business in permitted vehicles that are owned or leased by the vendor. The bill expands the delivery authority to include vehicles which are owned or leased by a person that has been identified on the vendor's beverage license application and is approved by the division. A vehicle permit must be obtained from the division to authorize the use of the vehicle by the vendor and by the designated

driver to transport alcoholic beverages. The signature of the designated driver is required on the vehicle permit application

The bill specifies that the vehicles must be operated pursuant to the vehicle permit when transporting alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage.

As with a vendor's vehicle permit, the bill also provides that the authorized person's permit would expire when the driver disposes of the vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division, whichever occurs first. In addition, the vehicle permit is canceled by the division upon the vendor's or authorized person's request.

The bill removes language which references the issuance of vehicle decals to be attached to the vehicle. Decals are no longer used by the division. However, the bill requires that the vehicle permit and the invoices or sales tickets for the purchased alcoholic beverages must be carried in the vehicle used by the vendor or the driver when the alcoholic beverages are being transported. The bill continues to require the payment of the \$5 vehicle permit fee.

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:

The DBPR estimates the bill to cause a minimal, but indeterminate increase in state revenue due to the increase in the number of \$5 vehicle permits issued.