

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 623 Wine
SPONSOR(S): Regulatory Affairs Committee; Artiles and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	7 Y, 3 N	Collins	Luczynski
2) Regulatory Affairs Committee	16 Y, 0 N, As CS	Collins	Hamon

SUMMARY ANALYSIS

Section 564.05, F.S., provides that the sale of wine is prohibited in individual containers that hold more than one gallon.

The bill amends s. 564.05, F.S., to allow the sale of wine in individual containers that hold 5.16 gallons.

Moreover, the bill provides that all wine containers sold or offered for sale for off-premises consumption must be in the unopened original container, except as provided in s. 564.09, F.S.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Beverage Law restricts the size of the containers in which alcoholic beverages may be sold at retail. The provisions of the Beverage Law apply to the sale of malt beverages, distilled spirits and wine.

Malt Beverages and Beer

Section 563.06(6), F.S., provides that malt beverages, including beer, may not be sold in individual containers that exceed thirty-two ounces.¹ Despite the size limitation, an exception exists for the sale of malt beverages in bulk. Specifically, the sale of malt beverages in a container that holds at least one gallon is not limited to a specific container size.²

A violation of the section is a first degree misdemeanor.³

Distilled Spirits

Section 565.10, F.S., provides that distilled spirits may not be sold in individual containers that exceed 1.75 liters. There is no exception to the size limitation for distilled spirits.

A violation of the section is a third degree felony.⁴

Wine

Section 564.05, F.S., provides that wine may not be sold in individual containers that exceed one gallon. Like with malt beverages, an exception to the container size limitation exists for the sale of wine. Specifically, qualified distributors and manufacturers are permitted to sell wine to other qualified distributors or manufacturers in any size container.⁵

A violation of the section is a second degree misdemeanor.⁶

Effect of Proposed Changes

The bill amends s. 564.05, F.S., to also allow the sale of wine in individual containers that hold 5.16 gallons. As a result, the sale of wine at retail in a container that holds more than one gallon is not permitted, unless the individual container holds 5.16 gallons of wine. A violation of the section is a second degree misdemeanor.

Moreover, the bill provides that all wine containers sold or offered for sale for off-premises consumption must be in the unopened original container, except as provided in s. 564.09, F.S. Section 564.09, F.S.,

¹ Section 563.06(6), Florida Statutes.

² Id.

³ Section 563.06(7), Florida Statutes.

⁴ Section 562.45(1), Florida Statutes

⁵ Section 564.05, Florida Statutes.

⁶ Id.

allows restaurant patrons to leave the establishment with a bottle of wine that has been opened, for the purposes of off-premises consumption, in certain circumstances.

B. SECTION DIRECTORY:

Section 1: amends s. 564.05, F.S., to allow wine to be sold in individual containers that hold 5.16 gallons, and to provide that all wine containers sold or offered for sale for off-premises consumption must be in the unopened original container, except as provided in s. 564.09, F.S.

Section 2: provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Wine excise taxes collected pursuant to s. 564.06, F.S., are paid per gallon. Thus, the change in the maximum wine container size does not directly or indirectly affect the Division of Alcoholic Beverages and Tobacco regarding the collection of excise taxes.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill is expected to have most of its impact in the hospitality industry, as bars and restaurants will be able to reduce cost and waste associated with spoiled wine.

Moreover, there may be a benefit to the private sector in being able to purchase larger size containers of wine, especially if a bulk rate is available.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

At the March 14, 2013 meeting of the Regulatory Affairs Committee, one strike-all amendment was proposed and adopted. The bill was reported favorably as a Committee Substitute.

The strike-all amendment:

- Allows for the sale of wine in reusable containers that hold 5.16 gallons; and
- Provides that all wine containers sold or offered for sale for off-premises consumption must be in the unopened original container, except as provided in s. 564.09, F.S.

The analysis is drafted to the Committee Substitute.