

By the Committees on Appropriations; and Regulated Industries;
and Senator Hays

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1 A bill to be entitled
2 An act relating to alcoholic beverages; amending s.
3 565.03, F.S.; providing definitions; revising
4 provisions regarding a state license tax involved with
5 the operation of distilleries; providing requirements
6 for craft distilleries under certain conditions;
7 prohibiting the shipment of certain distilled spirits;
8 restricting license transferability and ownership
9 affiliation; providing reporting requirements;
10 providing requirements relating to the payment of
11 taxes; providing for the adoption of rules; amending
12 s. 561.14, F.S.; conforming a cross-reference;
13 amending s. 567.01, F.S.; providing that a county
14 commission may order an election on the sale of
15 alcoholic beverages for consumption on premises;
16 amending s. 567.06; conforming a cross-reference;
17 amending s. 567.07, F.S.; conforming a cross-
18 reference; declaring that the provisions of ss. 565.03
19 and 561.14, F.S., as amended by this act are not
20 severable; providing a severability clause; providing
21 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 565.03, Florida Statutes, is amended to
26 read:

27 565.03 License fees; manufacturers, distributors, brokers,
28 sales agents, and importers of alcoholic beverages; vendor
29 licenses and fees; craft distilleries.-

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

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

35 (b) "Distillery" means a manufacturer of distilled spirits.

36 (2) ~~(1)(a)~~ A distillery ~~Each liquor manufacturer~~ authorized
37 ~~to do business~~ under the Beverage Law ~~to distill, rectify, or~~
38 ~~blend spirituous liquors~~ shall pay an annual state license tax
39 of \$4,000 for each plant or branch ~~operating he or she operates~~
40 in the state, ~~as follows:~~

41 ~~1. If engaged in the business of distilling spirituous~~
42 ~~liquors and nothing else, a state license tax of \$4,000.~~

43 ~~2. If engaged in the business of rectifying and blending~~
44 ~~spirituous liquors and nothing else, a state license tax of~~
45 ~~\$4,000.~~

46 ~~(b) Persons licensed hereunder in the business of~~
47 ~~distilling spirituous liquors may also engage in the business of~~
48 ~~rectifying and blending spirituous liquors without the payment~~
49 ~~of an additional license tax.~~

50 (3) A craft distillery licensed under this section may sell
51 to consumers, at its souvenir gift shop, spirits distilled on
52 its premises in this state in factory-sealed containers that are
53 filled at the distillery for off-premises consumption. Such
54 sales are authorized only on private property contiguous to the
55 licensed distillery premises in this state and included on the
56 sketch or diagram defining the licensed premises which has been
57 submitted with the distillery's license application. All sketch
58 or diagram revisions by the distillery require the division's

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59 approval. Before approval, the division shall verify that the
60 souvenir gift shop operated by the licensed distillery is owned
61 or leased by the distillery and is on property contiguous to the
62 distillery's production building in this state.

63 (a) A craft distillery or licensed distillery may not sell
64 any factory-sealed individual containers of spirits except in a
65 face-to-face sales transaction on the distillery's premises in
66 this state with a consumer who purchases no more than two
67 individual containers that comply with container limits in s.
68 565.10, for the consumer's personal use and not for resale.

69 (b) A craft distillery may not ship, arrange to ship, or
70 deliver any of its distilled spirits to consumers within this
71 state except in a face-to-face transaction on the distillery's
72 premises. However, a craft distillery may ship, arrange to ship,
73 or deliver such spirits to manufacturers of distilled spirits,
74 wholesale distributors of distilled spirits, state or federal
75 bonded warehouses, and exporters.

76 (c) Except as provided in paragraph (d), it is unlawful to
77 transfer a distillery license for a distillery that produces
78 75,000 gallons or fewer per calendar year of distilled spirits
79 on its premises, or to transfer an ownership interest in such
80 license, to an individual or entity that has any direct or
81 indirect ownership interest in a distillery licensed by this
82 state, another state, a territory, the United States government,
83 or another country to manufacture, blend, or rectify distilled
84 spirits for beverage purposes.

85 (d) A craft distillery may not have its ownership
86 affiliated with another distillery unless such distillery
87 produces 75,000 gallons or fewer of distilled spirits on its

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88 premises per calendar year.

89 (e) A craft distillery must report to the division within 5
90 days after it reaches the production limitations provided in
91 paragraph (1) (a). Any sale to a consumer at the craft
92 distillery's licensed premises is prohibited beginning on the
93 day after the craft distillery reaches the production limitation
94 for the year. A craft distillery that sells spirits under this
95 subsection shall submit any beverages excise taxes under the
96 Beverage Law in its monthly report to the division with any tax
97 payments due to the state.

98 (4) ~~(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
113 establishments or branches.

114 (5) ~~(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.

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117 (6) The division may adopt rules to administer this
118 section.

119 Section 2. Subsection (1) of section 561.14, Florida
120 Statutes, is amended to read:

121 561.14 License and registration classification.—Licenses
122 and registrations referred to in the Beverage Law shall be
123 classified as follows:

124 (1) Manufacturers licensed to manufacture alcoholic
125 beverages and distribute the same at wholesale to licensed
126 distributors and to no one else within the state, unless
127 authorized by statute. Persons engaged in the business of
128 distilling, rectifying, or blending spirituous liquors licensed
129 under s. 565.03(2) ~~565.03(1)(a)1. and (b)~~ shall sell and
130 distribute such beverages at wholesale only to other
131 manufacturers and to licensed distributors and to no one else
132 within this state.

133 Section 3. Section 567.01, Florida Statutes, is amended to
134 read:

135 567.01 Petition, order, notice of election.—

136 (1) The board of county commissioners of each county shall
137 order an election to decide whether the sale of intoxicating
138 liquors, wines, or beer shall be prohibited or permitted in that
139 ~~said county and if not prohibited, to decide the method of sale,~~
140 upon the presentation to said board at a regular or special
141 meeting, of a written application asking for such a
142 determination in the county in which said application is made
143 signed by one-fourth of the registered voters of the county. The
144 signature of each registered voter shall be personally signed to
145 such application; provided, however, a copy of said petition

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146 shall be dated and filed with the clerk of the circuit court of
147 the county in which such election is to be held prior to
148 procuring the signature of any registered voter thereon; and
149 such petition must be completed and presented to the board of
150 county commissioners within 120 days from the date said copy of
151 said petition is originally filed with the clerk of the circuit
152 court; and if not so done, said petition shall be held to be
153 invalid.

154 (2) The election so ordered shall be to decide ~~either:~~
155 ~~(a)~~ whether the sale of intoxicating liquors, wines, or
156 beer shall be prohibited or permitted in said county, and to
157 decide also whether such sale, if permitted by said election,
158 shall be restricted to sales by the package. ~~as hereinafter~~
159 ~~defined; or~~

160 ~~(b)~~

161 (3) After an a-prior election has authorized the such sale
162 of intoxicating liquors, wines, or beer and has restricted the
163 sales to by the package only, the board of county commissioners
164 shall order an election to decide whether intoxicating liquors,
165 wines, or beer shall be sold by the drink for consumption on
166 premises as provided in s. 567.07(2)(c) by a majority vote of
167 the board of county commissioners or when application is made
168 signed by one-tenth of the registered voters of the county.

169 ~~(4)(3)~~ The term "Sales by the package" is defined to mean
170 sales made in sealed containers, for consumption off the
171 premises where sold.

172 ~~(5)(4)~~ Such an election shall not be ordered oftener than
173 once every 2 years. All orders for such election shall be in
174 writing and shall be entered upon the minutes of the board but

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175 this requirement shall be directory only.

176 (6)~~(5)~~ Upon the making of the order for an election ~~as~~
177 ~~aforsaid~~, the board shall cause its clerk to give at least 30
178 days' notice of said election by publishing a copy of the order
179 for election in one newspaper in each and every town in said
180 county in which a newspaper or newspapers be published, and if
181 no newspaper be published within the county, then by posting at
182 least 10 copies of said order in 10 of the most public places in
183 said county, one of which shall be the courthouse door. Proof of
184 publication or proof of posting shall be filed with the board
185 and shall be made as provided by ss. 49.10 and 49.11, for making
186 proof of publication and proof of posting incident to
187 constructive service of process, except that the provisions of
188 said sections for recording shall not apply. All proofs of
189 publication and of posting shall be entered upon the minutes of
190 the board, but this requirement shall be directory only.

191 (7)~~(6)~~ It is the purpose and intent of the Legislature that
192 the ~~such~~ election shall obviate the necessity for holding two
193 separate elections, except as provided in s. 567.07(2)(c), by
194 determining in one election:

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

197 (b) If such sales are determined to be permitted, to
198 further determine whether the sales so made shall be limited to
199 sales by the package as herein before defined, or whether sales
200 by the drink on the premises, as well as sales by the package,
201 may be permitted.

202
203 A majority of those legally voting at such election must cast

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204 their votes for selling intoxicating liquors, wines, or beer in
205 order that the results of the election on the second question
206 shall be effective and binding.

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

209 567.06 Form of ballot; canvassing votes.—

210 (3) However, for a local option election authorized by s.
211 567.01(3) ~~567.01(2)(b)~~ on the sole question of whether
212 intoxicating liquors, wines, or beer may be sold by the drink
213 for consumption on premises, ballot instructions shall be
214 presented in the following form:

215

216 INSTRUCTIONS: Local Option Election on the Following Question:

217

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

223

224 For Sales by the Drink:

225

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

230 Section 5. Paragraph (c) of subsection (2) of section
231 567.07, Florida Statutes, is amended to read:

232 567.07 Results of election.—

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

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

251 Section 6. (1) The Legislature declares that it would not
252 have enacted individually the amendments to ss. 565.03 and
253 561.14, Florida Statutes, and expressly finds the amendments to
254 those provisions not to be severable. If a court of competent
255 jurisdiction determines any provision of those sections as
256 amended by this act to be in conflict with any law of this
257 state, a federal law or regulation, the State Constitution, or
258 the United States Constitution, or to be otherwise invalid for
259 any reason, it is the intent of the Legislature that the
260 amendments to ss. 565.03 and 561.14, Florida Statutes, shall be
261 void, that such invalidity shall void only those changes made by

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262 this act to ss. 565.03 and 561.14, Florida Statutes, and that no
263 other law be affected.

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

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