

1 A bill to be entitled
2 An act relating to malt beverages; amending s. 561.01,
3 F.S.; defining the term "growler"; amending s.
4 561.221, F.S.; deleting authorization to issue a
5 vendor's license to a manufacturer of malt beverages
6 for certain sales directly to consumers; revising
7 requirements for a vendor to be licensed as a
8 manufacturer of malt beverages; authorizing the
9 issuance of a vendor's license to certain
10 manufacturers of malt beverages to sell specified
11 beverages to consumers in person at the brewery;
12 providing requirements to serve such beverages;
13 prohibiting a certain manufacturer of malt beverages
14 from specified sales of malt beverages; providing an
15 exemption; authorizing a certain manufacturer of malt
16 beverages to conduct beer tastings; providing
17 requirements for conducting such tastings; authorizing
18 a certain manufacturer of malt beverages to sell
19 growlers for off-premises consumption in a specified
20 circumstance; prohibiting certain deliveries of malt
21 beverage products or the arrangement of such
22 deliveries; providing requirements to sell certain
23 alcoholic beverages directly to consumers for certain
24 manufacturers of malt beverages issued a vendor's
25 license; providing applicability; amending ss.
26 561.5101, 563.02, and 563.022, F.S.; conforming

27 provisions to changes made by the act; creating s.
28 563.035, F.S.; restricting the sale of growlers to
29 sale by certain vendors; providing requirements for
30 the sale of a growler; providing a penalty; amending
31 s. 563.06, F.S.; conforming provisions; providing an
32 effective date.

33
34 WHEREAS, pursuant to the authority of the state under the
35 provisions of the Twenty-First Amendment to the United States
36 Constitution, this act promotes the public's interest in a
37 viable and effective three-tier system of regulation of the
38 manufacture, distribution, and retail sale of alcoholic
39 beverages, and

40 WHEREAS, an alcoholic beverage is a unique product that can
41 have detrimental effects if abused; therefore, it is important
42 to have comprehensive, transparent, and effective regulation of
43 alcoholic beverages in this state, and

44 WHEREAS, few exceptions to this regulatory system should be
45 permitted, and only under special circumstances, and

46 WHEREAS, the public health and welfare, the proper
47 enforcement of tax laws, and the collection of tax revenues with
48 respect to the sale and consumption of alcoholic beverages are
49 promoted and enhanced by a three-tier system of regulation, and

50 WHEREAS, the purpose of this act is to authorize a very
51 limited exception to the three-tier system of regulation by
52 allowing manufacturers of malt beverages in this state to sell

53 beer in "growlers," which are rapidly becoming a nationwide
 54 industry standard, and

55 WHEREAS, the Legislature hopes that by providing such
 56 targeted local support, the private sector will be encouraged to
 57 develop and promote a Florida Brewery Trail to entice residents
 58 and tourists to visit the many fine breweries across the state
 59 to sample their beers and in the process explore and enjoy other
 60 aspects of the communities within which those breweries are
 61 located, and

62 WHEREAS, the Legislature believes that the limited retail
 63 option for manufacturers of malt beverages in the state would
 64 provide an economic boost to the local communities supporting
 65 those breweries, would not compete unfairly with distributors
 66 and retailers of malt beverages in those communities, and would
 67 continue to maintain the overall viability of the three-tier
 68 system of regulation that has served the state so well since its
 69 initial adoption pursuant to the Twenty-First Amendment to the
 70 United States Constitution, NOW, THEREFORE,

71
 72 Be It Enacted by the Legislature of the State of Florida:

73
 74 Section 1. Subsection (22) is added to section 561.01,
 75 Florida Statutes, to read:

76 561.01 Definitions.—As used in the Beverage Law:

77 (22) "Growler" means a clean, reusable container made of
 78 glass, ceramic, stainless steel, or similar leak-proof material

79 with a capacity of 32 ounces or 64 ounces that, in response to
 80 an order in person for off-premises consumption, is filled with
 81 a malt beverage and sealed on the premises at or immediately
 82 before or after the time of sale.

83 Section 2. Section 561.221, Florida Statutes, is amended
 84 to read:

85 561.221 Licensing of manufacturers and distributors as
 86 vendors and of vendors as manufacturers; conditions and
 87 limitations; brewery sales.-

88 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any
 89 other provision of the Beverage Law prohibits the ownership,
 90 management, operation, or control of not more than three
 91 vendor's licenses for the sale of alcoholic beverages by a
 92 manufacturer of wine who is licensed and engaged in the
 93 manufacture of wine in this state, even if the ~~such~~ manufacturer
 94 is also licensed as a distributor. However, ~~provided that no~~
 95 such a vendor's license may not ~~shall~~ be owned, managed,
 96 operated, or controlled by a ~~any~~ licensed manufacturer of wine
 97 unless the licensed premises of the vendor are situated on
 98 property contiguous to the manufacturing premises of the
 99 licensed manufacturer of wine.

100 (b) The division ~~of Alcoholic Beverages and Tobacco~~ shall
 101 issue permits to a certified Florida Farm Winery to conduct
 102 tasting and sales of wine produced by certified Florida Farm
 103 Wineries at Florida fairs, trade shows, expositions, and
 104 festivals. The certified Florida Farm Winery must ~~shall~~ pay all

105 entry fees and ~~shall~~ have a winery representative present during
 106 the event. The permit is limited to the length of the event.

107 (2) Notwithstanding s. 561.22, s. 561.42, or any other
 108 provision of the Beverage Law, a manufacturer of malt beverages
 109 may sell alcoholic beverages authorized under an existing
 110 vendor's license issued to the manufacturer before, and valid on
 111 and continuously after, July 1, 2014, directly to consumers for
 112 on-premises or off-premises consumption as follows: ~~The division~~
 113 is authorized to issue vendor's licenses to a manufacturer of
 114 malt beverages, even if such manufacturer is also licensed as a
 115 distributor, for the sale of alcoholic beverages on property
 116 consisting of a single complex, which property shall include a
 117 brewery and such other structures which promote the brewery and
 118 the tourist industry of the state. However, such property may be
 119 divided by no more than one public street or highway.

120 (a) A manufacturer that was issued a manufacturer's
 121 license and a vendor's license at a manufacturing premises
 122 pursuant to this subsection before July 1, 2014, may maintain
 123 and renew such licenses that were active and valid on July 1,
 124 2014, and continuously maintained since, but may not obtain an
 125 additional vendor's license under this subsection. A vendor's
 126 license held by a manufacturer of malt beverages pursuant to
 127 this subsection is subject to the requirements of this
 128 subsection.

129 (b) A manufacturing premises for which the manufacturer
 130 has a direct or indirect interest in an additional license may

131 operate a vendor's license pursuant to subsection (4).

132 (c) A vendor's license shall be located on the
133 manufacturing premises consisting of a single complex that
134 includes a brewery. Such premises may be divided by no more than
135 one public street or highway. The vendor-licensed premises must
136 be included on the sketch or diagram defining the licensed
137 premises submitted with the manufacturer's license application
138 pursuant to s. 561.01(11). All sketch or diagram revisions by
139 the manufacturer must be approved by the division, verifying
140 that the vendor premises operated by the licensed manufacturer
141 is owned or leased by the manufacturer and on the licensed
142 manufacturing premises.

143 (d) The manufacturer may sell alcoholic beverages
144 authorized under its vendor's license as follows:

145 1. Malt beverages manufactured on the licensed premises
146 for on-premises consumption or off-premises consumption in
147 growlers pursuant to paragraph (4)(d) and s. 563.035.

148 2. Other malt beverages for on-premises consumption only,
149 except for when:

150 a. The ownership or controlling interest of the
151 manufacturer changes, whether by sale, acquisition, transfer,
152 combination, consolidation, merger, share exchange, corporate
153 restructuring, takeover, or other means;

154 b. The location of the manufacturing premises changes;

155 c. The number or type of licenses held by the manufacturer
156 for that premises changes, or any of the licenses held becomes

157 inactive, is revoked, or is not renewed; or

158 d. The brewery or vendor premises fails to open or closes
159 for more than 30 days without good cause; or the manufacturer
160 ceases to manufacture malt beverages for the purpose of
161 supplying its distributors and exporters for 60 days or more,
162 but continues to operate under its vendor's license. For
163 purposes of this sub-subparagraph, the term "good cause" means
164 extraordinary circumstances such as a natural disaster, fire, or
165 other casualty; an act of war, terrorism, or civil unrest;
166 ongoing brewery construction begun under a license application
167 submitted and pending or a temporary license issued before July
168 1, 2014; or another like cause specified by rule of the
169 division.

170 3. Wine or liquor for on-premises consumption only.

171 (e) This subsection does not exempt an industry member,
172 other than a manufacturer, that owns the vendor premises
173 licensed under this subsection, from s. 561.42.

174 (3) (a) Notwithstanding s. 561.22, s. 561.42, or any other
175 provision ~~provisions~~ of the Beverage Law, a ~~any~~ vendor licensed
176 in this state may be licensed as a manufacturer of malt
177 beverages upon a finding by the division that:

178 1. The vendor will be engaged in brewing malt beverages at
179 a single location and in an amount that ~~which~~ will not exceed
180 10,000 kegs per year. For purposes of this subsection, the term
181 "keg" means 15.5 gallons.

182 2. All alcoholic beverages, including the malt beverages

183 so brewed and other malt beverages, will be sold to consumers
184 for consumption on the vendor's licensed premises or on
185 contiguous licensed premises owned by the vendor.

186 (b) A ~~Any~~ vendor that ~~which~~ is also licensed as a
187 manufacturer of malt beverages under ~~pursuant to~~ this subsection
188 is ~~shall be~~ responsible for applicable reports pursuant to ss.
189 561.50 and 561.55 with respect to the amount of beverage
190 manufactured each month and shall pay applicable excise taxes
191 thereon to the division by the 10th day of each month for the
192 previous month.

193 (c) It is ~~shall be~~ unlawful for a ~~any~~ licensed distributor
194 of malt beverages or an ~~any~~ officer, agent, or other
195 representative thereof to discourage or prohibit a ~~any~~ vendor
196 licensed as a manufacturer under this subsection from offering
197 malt beverages brewed for consumption on the licensed premises
198 of the vendor.

199 (d) It is ~~shall be~~ unlawful for any manufacturer of malt
200 beverages or an ~~any~~ officer, agent, or other representative
201 thereof to take any action to discourage or prohibit a ~~any~~
202 distributor of the manufacturer's product from distributing such
203 product to a licensed vendor that ~~which~~ is also licensed as a
204 manufacturer of malt beverages under ~~pursuant to~~ this
205 subsection.

206 (4) (a) Notwithstanding s. 561.22, s. 561.42, or any other
207 provision of the Beverage Law, the division may issue a vendor's
208 license to a licensed manufacturer of malt beverages in this

209 state that intends to manufacture and package malt beverages for
210 distribution to distributors and exporters and to sell its malt
211 beverages brewed on the licensed premises to consumers in person
212 for consumption on premises, on contiguous licensed premises
213 owned by the manufacturer, or to such consumers in growlers for
214 off-premises consumption pursuant to s. 563.035. All sales for
215 consumption on premises shall be served through a tap or spigot
216 as draft beer and may not be served in a sealed container
217 otherwise destined for sale to a distributor or exporter. All
218 sales in growlers for off-premises consumption are for personal
219 consumption only and not for resale.

220 (b) A manufacturer of malt beverages licensed as a vendor
221 under this subsection may not sell malt beverages at the
222 licensed premises, except those that are manufactured, wholly
223 owned, and otherwise packaged at the same facility for sale by
224 the manufacturer to licensed distributors and exporters. A malt
225 beverage that is produced at the licensed premises for or in
226 collaboration with another manufacturer under a contract or
227 other agreement is not a wholly owned malt beverage of the
228 manufacturer for purposes of qualifying as a vendor under this
229 subsection and may not be sold to consumers at such premises.

230 (c) A manufacturer of malt beverages licensed as a vendor
231 under this subsection may also conduct beer tastings on the
232 licensed premises of the brewery or on contiguous licensed
233 premises owned by the manufacturer, if the beer tasting is
234 conducted without charge and limited to and directed toward the

235 general public of the age of legal consumption. At such
236 tastings, the manufacturer may offer a malt beverage that it
237 wholly owns, regardless of where the malt beverage was
238 manufactured or packaged.

239 (d) A manufacturer of malt beverages licensed as a vendor
240 under this subsection may sell a growler to a consumer for off-
241 premises consumption only in a face-to-face transaction with the
242 consumer at the vendor's licensed premises where the consumer
243 must order, pay for, and receive the growler purchased.
244 Notwithstanding s. 561.57(1), the delivery off premises of a
245 growler from a vendor licensed under this subsection, or the
246 arrangement of such delivery by or to the consumer, whether by
247 common carrier or premises carrier or by an operator of a
248 privately owned car, truck, bus, or other conveyance, is
249 prohibited. This paragraph does not prohibit a consumer from
250 taking a growler purchased by the consumer under this subsection
251 from the vendor's licensed premises to another location by a
252 privately owned car, truck, bus, or other conveyance.

253 (e) Except as otherwise provided in subsection (2), a
254 manufacturer of malt beverages may be licensed as a vendor only
255 under this subsection and may have only those retail privileges
256 authorized under this subsection for such license.

257 Section 3. Subsection (1) of section 561.5101, Florida
258 Statutes, is amended to read:

259 561.5101 Come-to-rest requirement; exceptions; penalties.-

260 (1) For purposes of inspection and tax-revenue control,

261 all malt beverages, except those manufactured and sold pursuant
 262 to s. 561.221(2) or (4) ~~561.221(3)~~, must come to rest at the
 263 licensed premises of an alcoholic beverage wholesaler in this
 264 state before being sold to a vendor by the wholesaler. The
 265 prohibition contained in this subsection does not apply to the
 266 shipment of malt beverages commonly known as private labels. The
 267 prohibition contained in this subsection does ~~shall~~ not prevent
 268 a manufacturer from shipping malt beverages for storage at a
 269 bonded warehouse facility, if ~~provided that~~ such malt beverages
 270 are distributed as provided in this subsection or to an out-of-
 271 state entity.

272 Section 4. Subsection (2) of section 563.02, Florida
 273 Statutes, is amended to read:

274 563.02 License fees; vendors; manufacturers and
 275 distributors.—

276 (2) (a) Each manufacturer engaged in the business of
 277 brewing only malt beverages must ~~shall~~ pay an annual state
 278 license tax of \$3,000 for each plant or branch the manufacturer
 279 operates ~~he or she may operate~~.

280 (b) ~~However,~~ Each manufacturer engaged in the business of
 281 brewing less than 10,000 kegs of malt beverages annually for
 282 consumption on the premises pursuant to s. 561.221(3), commonly
 283 known as a brewpub manufacturer, must ~~shall~~ pay an annual state
 284 license tax of \$500 for each plant or branch.

285 Section 5. Paragraph (b) of subsection (14) of section
 286 563.022, Florida Statutes, is amended to read:

287 563.022 Relations between beer distributors and
 288 manufacturers.-

289 (14) MANUFACTURER; PROHIBITED INTERESTS.-

290 (b) Except as provided in paragraph (c), an ~~no~~ entity or
 291 person specified in paragraph (a) may not have an interest in
 292 the license, business, assets, or corporate stock of a licensed
 293 distributor and may not ~~nor shall such entity~~ sell directly to a
 294 ~~any~~ vendor in this state other than to a vendor ~~vendors who are~~
 295 licensed pursuant to s. 561.221(2).

296 Section 6. Section 563.035, Florida Statutes, is created
 297 to read:

298 563.035 Regulation of growlers.-

299 (1) Only a vendor licensed under s. 561.221(2) or (4) or
 300 holding a valid quota license pursuant to ss. 561.20(1) and
 301 565.02(1)(a)-(f) may sell a growler.

302 (2) A person may not sell a growler in violation of this
 303 section or sell as a growler any container of malt beverages
 304 that is not a growler as defined in s. 561.01(22).

305 (3) Each growler sold must:

306 (a) Be sealed with a tamperproof, tamper-evident seal.

307 (b) Meet food safety conditions for transferring bulk beer
 308 into containers as determined by a county or incorporated
 309 municipality.

310 (c) Be clearly marked as containing an alcoholic beverage
 311 and provide the percentage of alcohol by volume.

312 (d) Include the required label information for alcoholic
 313 beverages under 27 C.F.R. s. 16.21.

314 (e) Have a label that specifies the manufacturer, brand,
 315 type of malt beverage, and volume.

316 (4) A violation of this section is a misdemeanor of the
 317 second degree, punishable as provided in s. 775.082 or s.
 318 775.083.

319 Section 7. Subsections (6) and (7) of section 563.06,
 320 Florida Statutes, are amended to read:

321 563.06 Malt beverages; imprint on individual container;
 322 size of containers; exemptions.—

323 (6) All malt beverages packaged in individual containers
 324 sold or offered for sale by vendors at retail in this state,
 325 except for malt beverages authorized to be sold in growlers
 326 pursuant to s. 563.035, must shall be in individual containers
 327 containing no more than 32 ounces of such malt beverages.†
 328 ~~provided, however, that nothing contained in~~

329 (7) This section does not shall affect malt beverages
 330 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual
 331 container containing 1 gallon or more of such malt beverage
 332 regardless of individual container type.

333 (8)(7) Any person, firm, or corporation, or any of its
 334 agents, officers, or employees, that violates ~~violating any of~~
 335 ~~the provisions of this section~~ commits, ~~shall be guilty of a~~
 336 ~~misdemeanor of the first degree, punishable as provided in s.~~
 337 ~~775.082 or s. 775.083; and the license, if any, is shall be~~

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338 | subject to revocation or suspension by the division.

339 | Section 8. This act shall take effect October 1, 2014.