

1 A bill to be entitled

2 An act relating to malt beverages; amending s.  
3 561.221, F.S.; providing requirements for a licensed  
4 manufacturer of malt beverages to sell such beverages  
5 directly to consumers; providing requirements for a  
6 taproom; prohibiting a manufacturer from holding a  
7 vendor's license at specified premises; providing  
8 requirements for a licensed manufacturer to obtain a  
9 vendor's license; specifying under what circumstances  
10 a manufacturer may sell alcoholic beverages under its  
11 vendor's license; requiring a manufacturer to complete  
12 certain reports; providing applicability; providing  
13 requirements for a brewpub to be licensed as a  
14 manufacturer or vendor; providing requirements for a  
15 brewpub to sell alcoholic beverages to consumers;  
16 amending s. 561.5101, F.S.; conforming a cross-  
17 reference; amending s. 561.57, F.S.; prohibiting  
18 common carriers from making deliveries of malt  
19 beverages to consumers; amending s. 562.34, F.S.;  
20 providing that possessing and transporting a growler  
21 is lawful; amending s. 563.06, F.S.; defining the term  
22 "growler"; providing requirements for growlers;  
23 providing construction and severability; providing an  
24 effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (2) and (3) of section 561.221, Florida Statutes, are amended to read:

561.221 Retail exceptions to manufacturing licenses; brewing exceptions to vendor licenses ~~Licensing of manufacturers and distributors as vendors and of vendors as manufacturers;~~ conditions and limitations.—

(2) A manufacturer of malt beverages that is licensed and engaged in the manufacture of malt beverages in this state may sell directly to consumers in face-to-face transactions, which, notwithstanding s. 561.57(1), requires the physical presence of the consumer to make payment for and take receipt of the beverages on the licensed manufacturing premises, as follows:

(a) At a taproom, a manufacturer may sell malt beverages brewed by the manufacturer to consumers for on-premises or off-premises consumption without obtaining a vendor's license. A manufacturer of malt beverages shall comply with the following requirements related to a taproom:

1. The taproom must be a room or rooms located on the licensed manufacturing premises consisting of a single complex, which shall include a brewery. Such premises may be divided by no more than one public street or highway. The taproom shall be included on the sketch or diagram defining the licensed premises submitted with the manufacturer's license application pursuant to s. 561.01(11). All sketch or diagram revisions by the manufacturer must be approved by the division, verifying that

53 the taproom operated by the licensed manufacturer is owned or  
54 leased by the manufacturer and is located on the licensed  
55 manufacturing premises.

56 2. At least 70 percent by volume of the malt beverages  
57 sold or given to consumers per calendar year in the taproom must  
58 be brewed on the licensed manufacturing premises. No more than  
59 30 percent by volume of the malt beverages sold or given to  
60 consumers per calendar year in the taproom may be brewed by the  
61 manufacturer at other manufacturing premises and shipped to the  
62 licensed manufacturing premises pursuant to s. 563.022(14) (d).

63 3. Malt beverages may be sold to consumers in the taproom  
64 for off-premises consumption in authorized containers pursuant  
65 to s. 563.06(6) and (7).

66 4. A manufacturer of malt beverages is responsible for  
67 applicable reports pursuant to ss. 561.50 and 561.55 with  
68 respect to the amount of malt beverage sold or given to  
69 consumers in the taproom each month and shall pay applicable  
70 excise taxes thereon to the division by the 10th day of each  
71 month for the previous month.

72 5. This paragraph does not preclude a licensed  
73 manufacturer of malt beverages that operates a taproom from  
74 holding a permanent public food service establishment license  
75 under chapter 509 at the taproom.

76 6. A manufacturer may not hold a vendor's license at a  
77 licensed manufacturing premises that operates a taproom pursuant  
78 to this paragraph.

79        (b) In lieu of a taproom, on or after July 1, 2014, the  
80        division ~~may is authorized to~~ issue vendor's licenses to a  
81        manufacturer of malt beverages at no more than two licensed  
82        manufacturing premises for which the manufacturer has an  
83        interest, directly or indirectly, in the license if the  
84        manufacturer meets the following requirements:

85            1. A licensed manufacturer may obtain one vendor's license  
86        at no more than two of the licensed manufacturing premises for  
87        which the manufacturer has an interest, directly or indirectly,  
88        in the license. Any additional licensed manufacturing premises  
89        for which the manufacturer has an interest, directly or  
90        indirectly, in the license may operate a taproom without a  
91        vendor's license pursuant to paragraph (a).

92            2. The vendor's license shall be located on the licensed  
93        manufacturing premises consisting of a single complex, which  
94        shall include a brewery. Such premises may be divided by no more  
95        than one public street or highway. The licensed vendor premises  
96        shall be included on the sketch or diagram defining the licensed  
97        premises submitted with the manufacturer's license application  
98        pursuant to s. 561.01(11). All sketch or diagram revisions by  
99        the manufacturer must be approved by the division, verifying  
100       that the vendor premises operated by the licensed manufacturer  
101       is owned or leased by the manufacturer and is located on the  
102       licensed manufacturing premises.

103            3. The manufacturer may sell alcoholic beverages under its  
104        vendor's license as follows:

105 a. Malt beverages manufactured on the licensed  
106 manufacturing premises or at another licensed manufacturing  
107 premises for which the manufacturer has an interest, directly or  
108 indirectly, in the license for:

109 (I) On-premises consumption.

110 (II) Off-premises consumption in authorized containers  
111 pursuant to s. 563.06(6).

112 (III) Off-premises consumption in growlers pursuant to s.  
113 563.06(7).

114 b. Malt beverages manufactured exclusively by other  
115 manufacturers for:

116 (I) On-premises consumption.

117 (II) Off-premises consumption in authorized containers  
118 pursuant to s. 563.06(6).

119 (III) Off-premises consumption in growlers pursuant to s.  
120 563.06(7) by holders of a quota license.

121 c. Any wine or liquor for on-premises or off-premises  
122 consumption as authorized under its vendor's license.

123 4. A manufacturer of malt beverages pursuant to this  
124 subsection is responsible for applicable reports pursuant to ss.  
125 561.50 and 561.55 with respect to the amount of malt beverages  
126 manufactured and sold pursuant to its vendor's license, or given  
127 to consumers each month, and shall pay applicable excise taxes  
128 thereon to the division by the 10th day of each month for the  
129 previous month.

130 5. This paragraph does not preclude a licensed

131 manufacturer of malt beverages with a vendor's license from  
132 holding a permanent public food service establishment license  
133 under chapter 509 on the licensed manufacturing premises.

134 6. An entity that has applied for a manufacturer's and  
135 vendor's license at more than two licensed manufacturing  
136 premises pursuant to this paragraph before March 15, 2014, or  
137 that has been issued a manufacturer's and vendor's license at  
138 more than two licensed manufacturing premises pursuant to this  
139 paragraph before July 1, 2014, may maintain the licenses  
140 previously obtained or received based on such application, but  
141 may not obtain or apply for an additional vendor's license.  
142 However, except as to the allowance for manufacturers holding a  
143 vendor's license at more than two licensed manufacturing  
144 premises before July 1, 2014, a vendor's license held by a  
145 manufacturer of malt beverages pursuant to this paragraph,  
146 regardless of when first obtained, is subject to the  
147 requirements of subparagraphs 1.-5.

148 7. An entity with direct or indirect interests in vendor  
149 licenses issued to not more than two licensed manufacturing  
150 premises under this paragraph may not be related, directly or  
151 indirectly, to any other entity with direct or indirect interest  
152 in other vendor licenses issued to other separate manufacturing  
153 premises. This subparagraph prohibits the creation of a chain of  
154 more than two vendor licensed manufacturing premises under  
155 common control of entities with direct or indirect interests in  
156 such vendor licensed manufacturing premises. This subparagraph

157 does not prohibit the purchase or ownership of stock in a  
 158 publicly traded corporation where the licensee does not have and  
 159 does not obtain a controlling interest in the corporation. For  
 160 entities lawfully operating with more than two licensed  
 161 manufacturing premises with vendor licenses pursuant to  
 162 subparagraph 6., the limit of two licenses is replaced with the  
 163 actual number of manufacturing premises with vendor licenses the  
 164 entity operates, even if such manufacturer is also licensed as a  
 165 distributor, for the sale of alcoholic beverages on property  
 166 consisting of a single complex, which property shall include a  
 167 brewery and such other structures which promote the brewery and  
 168 the tourist industry of the state. However, such property may be  
 169 divided by no more than one public street or highway.

170 (3) The division may issue a manufacturer's license and a  
 171 vendor's license to a brewpub. To operate as a brewpub, the  
 172 following requirements must be met:

173 (a) ~~Notwithstanding other provisions of the Beverage Law,~~  
 174 ~~any vendor licensed in this state may be licensed as a~~  
 175 ~~manufacturer of malt beverages upon a finding by the division~~  
 176 ~~that:~~

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

182 (b) A brewpub may sell alcoholic beverages in a face-to-

183 face transaction with a consumer as follows:

184 1. Malt beverages manufactured on the licensed brewpub  
 185 premises for on-premises consumption.

186 2. Malt beverages manufactured exclusively by other  
 187 manufacturers for on-premises consumption as authorized under  
 188 its vendor's license.

189 3. Wine or liquor for on-premises consumption as  
 190 authorized under its vendor's license.

191 (c) A brewpub may not ship malt beverages to or between  
 192 licensed brewpub premises owned by the licensed entity. A  
 193 brewpub is not a manufacturer for the purposes of s.  
 194 563.022(14)(d).

195 (d) A brewpub may not distribute or sell malt beverages  
 196 outside of the licensed brewpub premises.

197 (e) A brewpub must hold a permanent public food service  
 198 establishment license under chapter 509.

199 ~~2. The malt beverages so brewed will be sold to consumers~~  
 200 ~~for consumption on the vendor's licensed premises or on~~  
 201 ~~contiguous licensed premises owned by the vendor.~~

202 ~~(f)(b) A brewpub is Any vendor which is also licensed as a~~  
 203 ~~manufacturer of malt beverages pursuant to this subsection shall~~  
 204 ~~be responsible for applicable reports pursuant to ss. 561.50 and~~  
 205 ~~561.55 with respect to the amount of beverage manufactured each~~  
 206 ~~month and shall pay applicable excise taxes thereon to the~~  
 207 ~~division by the 10th day of each month for the previous month.~~

208 ~~(g)(e) A It shall be unlawful for any licensed distributor~~



209 of malt beverages or any officer, agent, or other representative  
 210 thereof may not ~~to~~ discourage or prohibit a brewpub ~~any vendor~~  
 211 licensed ~~as a manufacturer~~ under this subsection from offering  
 212 malt beverages brewed for consumption on the licensed premises  
 213 of the brewpub ~~vendor~~.

214 (h) ~~(d)~~ A ~~It shall be unlawful for any~~ manufacturer of malt  
 215 beverages or any officer, agent, or other representative thereof  
 216 may not ~~to~~ take any action to discourage or prohibit a any  
 217 distributor of the manufacturer's product from distributing such  
 218 product to a brewpub ~~licensed vendor which is also~~ licensed ~~as a~~  
 219 ~~manufacturer of malt beverages~~ pursuant to this subsection.

220 Section 2. Subsection (1) of section 561.5101, Florida  
 221 Statutes, is amended to read:

222 561.5101 Come-to-rest requirement; exceptions; penalties.-

223 (1) For purposes of inspection and tax-revenue control,  
 224 all malt beverages, except those manufactured and sold pursuant  
 225 to s. 561.221(2) or (3) ~~561.221(3)~~, must come to rest at the  
 226 licensed premises of an alcoholic beverage wholesaler in this  
 227 state before being sold to a vendor by the wholesaler. The  
 228 prohibition contained in this subsection does not apply to the  
 229 shipment of malt beverages commonly known as private labels. The  
 230 prohibition contained in this subsection shall not prevent a  
 231 manufacturer from shipping malt beverages for storage at a  
 232 bonded warehouse facility, provided that such malt beverages are  
 233 distributed as provided in this subsection or to an out-of-state  
 234 entity.

235 Section 3. Subsection (6) of section 561.57, Florida  
 236 Statutes, is amended to read:

237 561.57 Deliveries by licensees.—

238 (6) Common carriers are not required to have vehicle  
 239 permits to transport alcoholic beverages. Common carriers may  
 240 not deliver malt beverages directly to a consumer.

241 Section 4. Subsections (1) and (3) of section 562.34,  
 242 Florida Statutes, are amended to read:

243 562.34 Containers; seizure and forfeiture.—

244 (1) A ~~It shall be unlawful for any person may not to~~ have  
 245 in her or his possession, custody, or control any cans, jugs,  
 246 jars, bottles, vessels, or any other type of containers which  
 247 are being used, are intended to be used, or are known by the  
 248 possessor to have been used to bottle or package alcoholic  
 249 beverages; however, this subsection does ~~provision shall~~ not  
 250 apply to a ~~any~~ person properly licensed to bottle or package  
 251 such alcoholic beverages, a ~~or to any~~ person intending to  
 252 dispose of such containers to a person, firm, or corporation  
 253 properly licensed to bottle or package such alcoholic beverages,  
 254 or a person who has in her or his possession, custody, or  
 255 control a growler as defined in s. 563.06(7).

256 (3) A ~~It shall be unlawful for any person may not to~~  
 257 transport any cans, jugs, jars, bottles, vessels, or any other  
 258 type of containers intended to be used to bottle or package  
 259 alcoholic beverages; however, this subsection does ~~section shall~~  
 260 not apply to a ~~any~~ firm or corporation holding a license to

261 manufacture or distribute such alcoholic beverages, a ~~and shall~~  
 262 ~~not apply to any~~ person transporting such containers to a ~~any~~  
 263 person, firm, or corporation holding a license to manufacture or  
 264 distribute such alcoholic beverages, or a person transporting a  
 265 growler as defined in s. 563.06(7).

266 Section 5. Subsections (1) and (6) of section 563.06,  
 267 Florida Statutes, are amended, present subsection (7) is  
 268 renumbered as subsection (8) and amended, and a new subsection  
 269 (7) is added to that section, to read:

270 563.06 Malt beverages; imprint on individual container;  
 271 size of containers; growlers; exemptions.—

272 (1) ~~On and after October 1, 1959,~~ All taxable malt  
 273 beverages packaged in individual containers possessed by any  
 274 person in the state for the purpose of sale or resale in the  
 275 state, except operators of railroads, sleeping cars, steamships,  
 276 buses, and airplanes engaged in interstate commerce and licensed  
 277 under this section, shall have imprinted thereon in clearly  
 278 legible fashion by any permanent method the word "Florida" or  
 279 "FL" and no other state name or abbreviation of any state name  
 280 in not less than 8-point type. The word "Florida" or "FL" shall  
 281 appear first or last, if imprinted in conjunction with any  
 282 manufacturer's code. A facsimile of the imprinting and its  
 283 location as it will appear on the individual container shall be  
 284 submitted to the division for approval.

285 (6) With the exception of growlers as defined in  
 286 subsection (7), all malt beverages packaged in individual

287 containers sold or offered for sale by vendors at retail in this  
 288 state shall be in individual containers containing no more than  
 289 32 ounces of such malt beverages; ~~provided, however, that~~  
 290 nothing contained in this section shall affect malt beverages  
 291 packaged in bulk, ~~or~~ in kegs, or in barrels or in any individual  
 292 container containing 1 gallon or more of such malt beverage  
 293 regardless of individual container type.

294 (7) (a) As used in the Beverage Law, the term "growler"  
 295 means any container between 32 ounces and 128 ounces in size  
 296 that was originally manufactured to hold malt beverages.

297 (b) A growler may be filled or refilled with:

298 1. A malt beverage manufactured by a manufacturer that  
 299 holds a valid manufacturer's license and operates a taproom  
 300 pursuant to s. 561.221(2) (a).

301 2. A malt beverage manufactured by a manufacturer that  
 302 holds a valid manufacturer's license and a valid vendor's  
 303 license pursuant to s. 561.221(2) (b).

304 3. Malt beverages manufactured by any manufacturer, if the  
 305 manufacturer filling the growler that holds a valid  
 306 manufacturer's license pursuant to s. 561.221(2) (b) and a valid  
 307 quota license at that location pursuant to ss. 561.20(1) and  
 308 565.02(1) (a) - (f).

309 4. A malt beverage sold by a vendor who holds a valid  
 310 quota license pursuant to ss. 561.20(1) and 565.02(1) (a) - (f).

311 (c) A growler must have an unbroken seal or be incapable  
 312 of being immediately consumed.

313 (d) A growler must be clearly labeled as containing an  
 314 alcoholic beverage and provide the name of the manufacturer, the  
 315 brand, the volume, the percentage of alcohol by volume, and the  
 316 required label information for alcoholic beverages under 27  
 317 C.F.R. s. 16.21. If a growler being refilled has an existing  
 318 label or other identifying mark from a manufacturer or brand,  
 319 that label shall be covered sufficiently to indicate the  
 320 manufacturer and brand of the malt beverage placed in the  
 321 growler.

322 (e) A growler must be clean before being filled.

323 (f) A licensee authorized to fill growlers may not use  
 324 growlers for purposes of distribution or sale outside of the  
 325 licensed manufacturing premises or licensed vendor premises.

326 (8)(7) A Any person, firm, or corporation or an agent,  
 327 officer, or employee thereof who violates, its agents, officers,  
 328 or employees, violating any of the provisions of this section  
 329 commits, shall be guilty of a misdemeanor of the first degree,  
 330 punishable as provided in s. 775.082 or s. 775.083, and the  
 331 license, if any, shall be subject to revocation or suspension by  
 332 the division.

333 Section 6. If any provision of s. 561.221(2), Florida  
 334 Statutes, as amended by this act, is held invalid, or if the  
 335 application of that subsection to any person or circumstance is  
 336 held invalid, the invalidity does not affect other provisions or  
 337 applications of this act which can be given effect without the  
 338 invalid provision or application, and to this end s. 561.221(2),

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339 | Florida Statutes, is severable.

340 |       Section 7. This act shall take effect July 1, 2014.