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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/AD/2R

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04/28/2014 06:01 PM

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Senator Stargel moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 561.221, Florida Statutes, is amended to
read:

561.221 Licensing of manufacturers and distributors as
vendors and of vendors as manufacturers; exceptions, conditions,
and limitations.—

(1) (a) Nothing contained in s. 561.22, s. 561.42, or any
other provision of the Beverage Law prohibits the ownership,



961662

12 management, operation, or control of not more than three
13 vendor's licenses for the sale of alcoholic beverages by a
14 manufacturer of wine who is licensed and engaged in the
15 manufacture of wine in this state, even if such manufacturer is
16 also licensed as a distributor; provided that no such vendor's
17 license shall be owned, managed, operated, or controlled by any
18 licensed manufacturer of wine unless the licensed premises of
19 the vendor are situated on property contiguous to the
20 manufacturing premises of the licensed manufacturer of wine.

21 (b) The Division of Alcoholic Beverages and Tobacco shall
22 issue permits to a certified Florida Farm Winery to conduct
23 tasting and sales of wine produced by certified Florida Farm
24 Wineries at Florida fairs, trade shows, expositions, and
25 festivals. The certified Florida Farm Winery shall pay all entry
26 fees and shall have a winery representative present during the
27 event. The permit is limited to the length of the event.

28 (2) (a) Notwithstanding s. 561.22, s. 561.42, or any other
29 provision of the Beverage Law, the division may is authorized to
30 issue a vendor's licenses license per licensed premises to a
31 manufacturer of malt beverages, even if the such manufacturer is
32 also licensed as a distributor, for the sale of alcoholic
33 beverages on property consisting of a single complex. The, which
34 property must shall include a brewery and such other structures
35 which promote the brewery and the tourist industry of the state.
36 However, such property may be divided by no more than one public
37 street or highway.

38 (b) A manufacturer licensed as a vendor under this
39 subsection may sell alcoholic beverages under its vendor's
40 license as follows:



961662

- 41 1. Malt beverages manufactured on the licensed premises or
42 transferred from another of its licensed premises, for:
- 43 a. On-premises consumption, provided that, notwithstanding
44 s. 530.22(14)(b), all malt beverages received from the
45 manufacturer's other breweries above an amount equal to the
46 lesser of the manufacturer's combined annual production for all
47 of its breweries or 2,000 kegs must be obtained through a
48 distributor;
- 49 b. Off-premises consumption in growlers pursuant to s.
50 563.061;
- 51 c. Off-premises consumption in sealed containers, as
52 authorized under s. 563.06, in an amount not to exceed one keg
53 per consumer per day, provided that the total amount of malt
54 beverages brewed by the manufacturer and sold for consumption
55 off the licensed premises in sealed containers does not exceed
56 2000 kegs per year.
- 57 d. Off-premises consumption in sealed containers, as
58 authorized under s. 563.06, in an amount not to exceed one keg
59 per consumer per day, provided that, if the total amount of malt
60 beverages brewed by the manufacturer and sold for consumption
61 off the licensed premises in sealed containers exceeds 2000 kegs
62 per year, the total amount of malt beverages brewed by the
63 manufacturer and sold for consumption off the licensed premises
64 in sealed containers in excess of 2000 kegs per year does not
65 exceed 20 percent of the total malt beverages brewed on the
66 licensed premises.
- 67 2. Any other malt beverages, for on-premises consumption
68 only.
- 69 3. Any wine or liquor, for on-premises consumption only, as



961662

70 authorized under its vendor's license.

71 (c) Notwithstanding subparagraph (b)2., a manufacturer
72 holding its vendor's license under this subsection as a quota
73 licensee pursuant to s. 565.02(1) may also sell malt beverages
74 brewed off the licensed premises, for off-premises consumption,
75 in sealed containers as authorized under s. 563.06 and its
76 vendor's license, only if the premises was licensed under s.
77 565.02(1) on or before October 1, 2014.

78 (d) Notwithstanding subparagraph (b)3., a manufacturer
79 holding its vendor's license under this subsection as a quota
80 licensee pursuant to s. 565.02(1) may also sell such alcoholic
81 beverages, for off-premises consumption, in sealed containers as
82 authorized under its vendor's license, only if the premises was
83 licensed under s. 565.02(1) on or before October 1, 2014.

84 (e) Notwithstanding s. 561.57(1), the delivery of any such
85 sealed container or growler off the vendor's licensed premises,
86 whether by common or premises carrier or by an operator of a
87 privately owned car, truck, bus, or other conveyance, is
88 prohibited. In addition, a consumer or other person may not
89 arrange for the delivery off the licensed manufacturing premises
90 to the consumer of any such sealed container or growler from a
91 vendor licensed under this subsection, whether by common or
92 premises carrier or by an operator of a privately owned car,
93 truck, bus, or other conveyance. However, this paragraph does
94 not prohibit a consumer from taking the sealed container or
95 growler, purchased by the consumer from a manufacturer licenses
96 as a vendor under this subsection, from the vendor's licensed
97 premises to another location by a privately owned car, truck,
98 bus, or other conveyance.



961662

99 (f) The manufacturer shall maintain a record of all malt
100 beverages received from all of its licensed manufacturing
101 premises, including the amount of malt beverages received, the
102 licensed premises from which the malt beverages were
103 transferred, and the amount of malt beverages sold for off-
104 premises consumption in sealed containers, as authorized in s.
105 563.06(6). The division shall adopt rules pursuant to ss.
106 120.536(1) and 120.54 to implement the provisions of this
107 subparagraph (b)1. with respect to sales for off-premises
108 consumption and transfers between licensed manufacturing
109 premises.

110 (g) A manufacturer licensed as a vendor under this
111 subsection may hold a permanent food service license at the
112 licensed premises.

113 (h) This subsection is a limited exception to ss. 561.22
114 and 561.42. Except as specifically provided in this subsection
115 to permit a manufacturer of malt beverages to also be licensed
116 as a vendor, a manufacturer of malt beverages is subject to the
117 restrictions in ss. 561.22 and 561.42.

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

122 1. The vendor will be engaged in brewing malt beverages at
123 a single location and in an amount that which will not exceed
124 10,000 kegs per year. As used in For purposes of this section
125 subsection, the term "keg" means 15.5 gallons.

126 2. The malt beverages ~~se~~ brewed will be sold to consumers
127 only for consumption on the vendor's licensed premises or on



961662

128 contiguous licensed premises owned or leased by the vendor.

129 (b) Any vendor which is also licensed as a manufacturer of
130 malt beverages pursuant to this subsection shall be responsible
131 for applicable reports pursuant to ss. 561.50 and 561.55 with
132 respect to the amount of beverage manufactured each month and
133 must ~~shall~~ pay the applicable excise taxes ~~thereon~~ to the
134 division by the 10th day of each month for the previous month.

135 (c) A ~~It shall be unlawful for any~~ licensed distributor of
136 malt beverages or an ~~any~~ officer, agent, or other representative
137 thereof may not ~~to~~ discourage or prohibit any vendor licensed as
138 a manufacturer under this subsection from offering malt
139 beverages brewed for consumption on the licensed premises of the
140 vendor.

141 (d) A ~~It shall be unlawful for any~~ manufacturer of malt
142 beverages or an ~~any~~ officer, agent, or other representative
143 thereof may not ~~to~~ take any action to discourage or prohibit a
144 ~~any~~ distributor of the manufacturer's product from distributing
145 such product to a licensed vendor which is also licensed as a
146 manufacturer of malt beverages pursuant to this subsection.

147 Section 2. Section 561.37, Florida Statutes, is amended to
148 read:

149 561.37 Bond for payment of taxes.-

150 (1) Each manufacturer and each distributor must ~~shall~~ file
151 with the division a surety bond acceptable to the division in
152 the amount ~~sum~~ of \$25,000 as surety for the payment of all
153 taxes. ~~., provided,~~ However, if ~~that when~~ in the discretion of the
154 division the amount of business done by the manufacturer or
155 distributor is of such volume that a bond in an amount of less
156 than \$25,000 will be adequate to secure the payment of all taxes



961662

157 assessed or authorized by the Beverage Law, the division may
158 accept a bond in an amount of less a lesser sum than \$25,000,
159 but ~~not in no event shall it accept a bond of~~ less than \$10,000,
160 and it may at any time in its discretion require any bond in an
161 amount less of than \$25,000 to be increased so as not to exceed
162 \$25,000. ~~provided, however, that~~

163 (2) Notwithstanding subsection (1), the amount of bond
164 required under this section for:

165 (a) A brewer is \$5,000 shall be \$20,000, except that if
166 ~~where,~~ in the discretion of the division, the amount of business
167 done by the brewer is of such volume that a bond in an amount of
168 less than \$5,000 \$20,000 will be adequate to secure the payment
169 of all taxes assessed or authorized by the Beverage Law, the
170 division may accept a bond in an amount of less a lesser sum
171 than \$5,000 \$20,000, but ~~not in no event shall it accept a bond~~
172 ~~of~~ less than \$2,500 \$10,000, and it may at any time in its
173 discretion require any bond in an amount of less than \$5,000
174 ~~\$20,000~~ to be increased so as not to exceed \$5,000. \$20,000;
175 ~~provided further that the amount of the bond required for~~

176 (b) A wine or wine and cordial manufacturer is shall be
177 \$5,000. However, except that, in the case of a manufacturer
178 engaged solely in the experimental manufacture of wines and
179 cordials from Florida products, if where in the discretion of
180 the division the amount of business done by such a manufacturer
181 is of such volume that a bond in an amount of less than \$5,000
182 will be adequate to secure the payment of all taxes assessed or
183 authorized by the Beverage Law, the division may accept a bond
184 in an amount of less a lesser sum than \$5,000, but ~~not in no~~
185 ~~event shall it accept a bond of~~ less than \$1,000, and it may at



961662

186 any time in its discretion require a bond in an amount of less
187 than \$5,000 to be increased so as not to exceed \$5,000.~~;~~

188 ~~provided, further, that the amount of bond required for~~

189 (c) A distributor who sells only beverages containing not
190 more than 4.007 percent of alcohol by volume, in counties where
191 the sale of intoxicating liquors, wines, and beers is
192 prohibited, or a distributor ~~and to distributors~~ who sells ~~sell~~
193 only beverages containing not more than 17.259 percent of
194 alcohol by volume and wines regardless of alcoholic content, in
195 counties where the sale of intoxicating liquors, wines, and
196 beers is permitted, is ~~shall file with the division a surety~~
197 ~~bond acceptable to the division in the sum of \$25,000.~~ ; ~~as~~
198 ~~surety for the payment of all taxes; provided,~~ However, if that
199 ~~where~~ in the discretion of the division the amount of business
200 done by such a distributor is of such volume that a bond in an
201 amount of less than \$25,000 will be adequate to secure the
202 payment of all taxes assessed or authorized by the Beverage Law,
203 the division may accept a bond in an amount of ~~a~~ less ~~sum~~ than
204 \$25,000, but not ~~in no event shall it accept a bond~~ less than
205 \$1,000, and it may at any time in its discretion require any
206 bond in an amount of less than \$25,000 to be increased so as not
207 to exceed \$25,000.~~;~~ ~~provided, further, that the amount of bond~~
208 ~~required for~~

209 (d) A distributor in a county having a population of 15,000
210 or less who procures a license by which his or her sales are
211 restricted to distributors and vendors who have obtained
212 licenses in the same county is, ~~shall be~~ \$5,000.

213 Section 3. For the purpose of incorporating the amendment
214 made by this act to section 561.221(2), Florida Statutes, in



961662

215 reference thereto, subsection (14) of section 563.022, Florida
216 Statutes, is reenacted:

217 563.022 Relations between beer distributors and
218 manufacturers.—

219 (14) MANUFACTURER; PROHIBITED INTERESTS.—

220 (a) This subsection applies to:

221 1. A manufacturer;

222 2. Any officer, director, agent, or employee of a
223 manufacturer; or

224 3. An affiliate of any manufacturer, regardless of whether
225 the affiliation is corporate or by management, direction, or
226 control.

227 (b) Except as provided in paragraph (c), no entity or
228 person specified in paragraph (a) may have an interest in the
229 license, business, assets, or corporate stock of a licensed
230 distributor nor shall such entity sell directly to any vendor in
231 this state other than to vendors who are licensed pursuant to s.
232 561.221(2).

233 (c) Any entity described in paragraph (a) may financially
234 assist a proposed distributor in acquiring ownership of the
235 distributorship through participation in a limited partnership
236 arrangement in which the entity described in paragraph (a) is a
237 limited partner and the proposed distributor seeking to acquire
238 ownership of the distributorship is the general partner. Such
239 limited partnership arrangements may exist for no longer than 8
240 years from their creation and shall not be extended or renewed
241 by means of a transfer of full ownership to an entity described
242 in paragraph (a) followed by the creation of a new limited
243 partnership or by any other means. In any such arrangement for



961662

244 financial assistance, the federal basic permit and distributor's
245 license issued by the division shall be issued in the name of
246 the distributor and not in the name of an entity described in
247 paragraph (a). If, after the creation of a limited partnership
248 pursuant to this paragraph, an entity described in paragraph (a)
249 acquires title to the distributorship which was the subject of
250 the limited partnership, the entity described in paragraph (a)
251 shall divest itself of the distributorship within 180 days, and
252 the distributorship shall be ineligible for limited partnership
253 financing for 20 years thereafter. No entity described in
254 paragraph (a) shall enter into a limited partnership arrangement
255 with a licensed distributor whose distributorship existed and
256 was operated prior to the creation of such limited partnership
257 arrangement.

258 (d) Nothing in the Beverage Law shall be construed to
259 prohibit a manufacturer from shipping products to or between its
260 breweries without a distributor's license.

261 (e) Notwithstanding the provisions of paragraph (b), any
262 entity named in paragraph (a) may have an interest in the
263 license, business, assets, or corporate stock of a licensed
264 distributor for a maximum of 180 consecutive days as the result
265 of a judgment of foreclosure against the distributor or for 180
266 consecutive days after acquiring title pursuant to the written
267 request of the licensed distributor. Under either of these
268 circumstances, manufacturer ownership of an interest in the
269 license, business, assets, or corporate stock of a licensed
270 distributor shall only be for 180 days and only for the purpose
271 of facilitating an orderly transfer of the distributorship to an
272 owner not affiliated with a manufacturer.



961662

273 (f) Notwithstanding the provisions of paragraph (b), any
274 entity named in paragraph (a) may have a security interest in
275 the inventory or property of its licensed distributors to secure
276 payment for said inventory or other loans for other purposes.

277 Section 4. Section 563.06, Florida Statutes, is amended to
278 read:

279 563.06 Malt beverages; imprint on individual container;
280 size of containers; growlers; exemptions.-

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

294 (2) Nothing herein contained shall require such designation
295 to be attached to individual containers of malt beverages which
296 are transported through this state and which are not sold,
297 delivered, or stored for sale therein, if transported in
298 accordance with such rules and regulations as adopted by the
299 division; nor shall this requirement apply to malt beverages
300 packaged in individual containers and held on the premises of a
301 brewer or bottler, which malt beverages are for sale and



961662

302 delivery to persons outside the state.

303 (3) Possession by any person in the state, except as
304 otherwise provided herein, of more than 4 1/2 gallons of malt
305 beverages in individual containers which do not have the word
306 "Florida" or "FL" as herein provided, shall be prima facie
307 evidence that said malt beverage is possessed for the purpose of
308 sale or resale.

309 (4) Except as otherwise provided herein, any malt beverages
310 in individual containers held or possessed in the state for the
311 purpose of sale or resale within the state which do not bear the
312 word "Florida" or "FL" thereon shall, at the direction of the
313 division, be confiscated in accordance with the provisions of
314 the Beverage Law.

315 (5) (a) Nothing contained in this section shall require that
316 malt beverages packaged in individual containers and possessed
317 by any person in the state for purposes of sale or resale in the
318 state have imprinted thereon the word "Florida" or "FL" if the
319 manufacturer of the malt beverages can establish before the
320 division that the manufacturer has a tracking system in place,
321 by use of code or otherwise, which enables the manufacturer,
322 with at least 85 percent reliability by July 1, 1996, and 90
323 percent reliability by January 1, 2000, to identify the
324 following:

325 1. The place where individual containers of malt beverages
326 were produced;

327 2. The state into which the individual containers of malt
328 beverages were shipped; and

329 3. The individual distributors within the state which
330 received the individual containers of malt beverages.



961662

331 (b) Prior to shipping individual containers of malt
332 beverages into the state which do not have the word "Florida" or
333 "FL" imprinted thereon, the manufacturer must file an
334 application with the division to claim the exemption contained
335 herein and must obtain approval from the division to ship
336 individual containers of malt beverages into the state which do
337 not have the word "Florida" or "FL" imprinted thereon.
338 Information furnished by the manufacturer to establish the
339 criteria contained within paragraph (a) may be subject to an
340 annual audit and verification by the division. The division may
341 revoke an approved exemption if the manufacturer refuses to
342 furnish the information required in paragraph (a) upon request
343 of the division, or if the manufacturer fails to permit a
344 subsequent verification audit, or if the manufacturer fails to
345 fully cooperate with the division during the conducting of an
346 audit.

347 (c) When a distributor has information that malt beverages
348 may have been shipped into Florida on which payment of Florida
349 excise taxes has not been made, such information may be provided
350 to the division and the division shall investigate to ascertain
351 whether any violations of Florida law have occurred.

352 (6) All malt beverages packaged in individual containers
353 sold or offered for sale by vendors at retail in this state,
354 except for malt beverages authorized to be sold in growlers
355 pursuant to s. 563.061, must ~~shall~~ be in individual containers
356 containing no more than 32 ounces of such malt beverages.
357 ~~provided, however, that nothing contained in~~

358 (7) This section does not ~~shall~~ affect malt beverages
359 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual



961662

360 container containing 1 gallon or more of such malt beverage
361 regardless of individual container type.

362 (8) ~~(7)~~ A Any person, firm, or corporation, or any of its
363 agents, officers or employees, that violates violating any of
364 the provisions of this section commits, shall be guilty of a
365 misdemeanor of the first degree, punishable as provided in s.
366 775.082 or s. 775.083; and the license, if any, is shall be
367 subject to revocation or suspension by the division.

368 Section 5. Section 563.061, Florida Statutes, is created to
369 read:

370 563.061 Malt beverages; filling or refilling of growlers.-

371 (1) "Growler" means a refillable container that is made of
372 glass, ceramic, metal, or similar leak-proof material and is
373 designed to contain a carbonated malt beverage in a capacity of
374 32 ounces, 64 ounces, or 128 ounces.

375 (2) The filling or refilling of a growler shall be in
376 response to an order, in a face-to-face transaction, only for
377 off-premises consumption. The growler must be filled with a malt
378 beverage and sealed on the premises at or immediately before or
379 after the time of sale.

380 (3) The filling or refilling of a growler is limited to:

381 (a) A manufacturer of malt beverages who holds a valid
382 vendor's license pursuant to s. 561.221(2);

383 (b) A vendor holding a quota license under ss. 561.20(1)
384 and 565.02(1)(a) with the sale of malt beverages authorized
385 under that license; or

386 (c) A vendor holding a license under s. 563.02(1)(b)-(f),
387 s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless the license
388 restricts the sale of malt beverages only for consumption on the



389 licensed premises.

390 (4) The growler must have an unbroken seal or be incapable
391 of being immediately consumed.

392 (5) The growler must be clearly labeled as containing an
393 alcoholic beverage and provide the name of the manufacturer, the
394 brand, the volume, the percentage of alcohol by volume, and the
395 required federal health warning notice for alcoholic beverages.

396 If a growler being refilled has an existing label or other
397 identifying mark of a manufacturer or brand from a prior filling
398 or refilling, that label must be covered sufficiently to
399 indicate the manufacturer and brand of the malt beverage being
400 placed in the container at that refilling.

401 (6) The growler must be clean before filling or refilling.

402 (7) A licensee authorized to fill and refill growlers may
403 not use them for purposes of distribution or sale off the
404 manufacturer's or vendor's licensed premises, except as
405 authorized under this section and s. 561.221(2).

406 Section 6. For the purpose of incorporating the amendments
407 made by this act to the Beverage Law, subsection (1) of section
408 561.11, Florida Statutes, is reenacted to read:

409 561.11 Power and authority of division.—

410 (1) The division has authority to adopt rules pursuant to
411 ss. 120.536(1) and 120.54 to implement the provisions of the
412 Beverage Law.

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

414
415 ===== T I T L E A M E N D M E N T =====

416 And the title is amended as follows:

417 Delete everything before the enacting clause



961662

418 and insert:

419 A bill to be entitled

420 An act relating to malt beverages; amending s.
421 561.221, F.S.; clarifying three-tier system exceptions
422 and application with respect to the manufacture,
423 distribution, and sale of malt beverages; revising
424 requirements for licensure and operation of
425 manufacturers and vendors; defining the term
426 "licensee"; providing legislative intent; amending s.
427 561.37, F.S.; revising bond requirements for brewers;
428 reenacting s. 563.022(14), F.S., relating to
429 prohibited interests between a manufacturer and a
430 distributor of malt beverages, to incorporate the
431 amendments made to s. 561.221(2), F.S., in a reference
432 thereto; revising provisions relating to shipment of
433 products to or between breweries; amending s. 563.06,
434 F.S.; revising provisions relating to the sale of malt
435 beverages at retail in containers of specified sizes,
436 to conform to changes made by the act; creating s.
437 563.061, F.S.; defining the term "grower"; providing
438 requirements for and limitations on the filling,
439 refilling, and sale or distribution of growlers;
440 reenacting s. 561.11(1), F.S., relating to authority
441 of the Division of Alcoholic Beverages and Tobacco of
442 the Department of Business and Professional Regulation
443 to adopt rules to implement the Beverage Law, to
444 incorporate the amendments made to the Beverage Law by
445 this act for such purposes; providing an effective
446 date.



961662

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