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1 A bill to be entitled
2 An act relating to malt beverages; amending s.
3 561.221, F.S.; clarifying three-tier system exceptions
4 and application with respect to the manufacture,
5 distribution, and sale of malt beverages; revising
6 requirements for licensure and operation of
7 manufacturers and vendors; defining the term
8 "licensee"; providing legislative intent; amending s.
9 561.37, F.S.; revising bond requirements for brewers;
10 reenacting s. 563.022(14), F.S., relating to
11 prohibited interests between a manufacturer and a
12 distributor of malt beverages, to incorporate the
13 amendments made to s. 561.221(2), F.S., in a reference
14 thereto; revising provisions relating to shipment of
15 products to or between breweries; amending s. 563.06,
16 F.S.; revising provisions relating to the sale of malt
17 beverages at retail in containers of specified sizes,
18 to conform to changes made by the act; creating s.
19 563.061, F.S.; defining the term "growler"; providing
20 requirements for and limitations on the filling,
21 refilling, and sale or distribution of growlers;
22 reenacting s. 561.11(1), F.S., relating to authority
23 of the Division of Alcoholic Beverages and Tobacco of
24 the Department of Business and Professional Regulation
25 to adopt rules to implement the Beverage Law, to
26 incorporate the amendments made to the Beverage Law by
27 this act for such purposes; providing an effective
28 date.
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30 Be It Enacted by the Legislature of the State of Florida:

31

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

34 561.221 Licensing of manufacturers and distributors as
35 vendors and of vendors as manufacturers; exceptions, conditions,
36 and limitations.—

37 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any
38 other provision of the Beverage Law prohibits the ownership,
39 management, operation, or control of not more than three
40 vendor's licenses for the sale of alcoholic beverages by a
41 manufacturer of wine who is licensed and engaged in the
42 manufacture of wine in this state, even if such manufacturer is
43 also licensed as a distributor; provided that no such vendor's
44 license shall be owned, managed, operated, or controlled by any
45 licensed manufacturer of wine unless the licensed premises of
46 the vendor are situated on property contiguous to the
47 manufacturing premises of the licensed manufacturer of wine.

48 (b) The Division of Alcoholic Beverages and Tobacco shall
49 issue permits to a certified Florida Farm Winery to conduct
50 tasting and sales of wine produced by certified Florida Farm
51 Wineries at Florida fairs, trade shows, expositions, and
52 festivals. The certified Florida Farm Winery shall pay all entry
53 fees and shall have a winery representative present during the
54 event. The permit is limited to the length of the event.

55 (2) (a) Notwithstanding s. 561.221, s. 561.42, or any other
56 provision of the Beverage Law, the division may ~~is authorized to~~
57 issue a vendor's licenses license per licensed premises to a
58 manufacturer of malt beverages, even if the ~~such~~ manufacturer is

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59 also licensed as a distributor, for the sale of alcoholic
60 beverages on property consisting of a single complex. The, which
61 property must ~~shall~~ include a brewery and ~~such other structures~~
62 ~~which promote the brewery and the tourist industry of the state.~~
63 ~~However, such property may be divided by no more than one public~~
64 ~~street or highway.~~

65 (b) A manufacturer licensed as a vendor under this
66 subsection may sell alcoholic beverages under its vendor's
67 license as follows:

68 1. Malt beverages manufactured on the licensed premises or
69 transferred from another of its licensed premises, for:

70 a. On-premises consumption, provided that, notwithstanding
71 s. 530.22(14)(b), all malt beverages received from the
72 manufacturer's other breweries above an amount equal to the
73 lesser of the receiving manufacturer's total malt beverages
74 brewed on the licensed premises or 2,000 kegs must be obtained
75 through a distributor;

76 b. Off-premises consumption in growlers pursuant to s.
77 563.061;

78 c. Off-premises consumption in sealed containers, as
79 authorized under s. 563.06, in an amount not to exceed one keg
80 per consumer per day, provided that the total amount of malt
81 beverages brewed by the manufacturer and sold for consumption
82 off the licensed premises in sealed containers does not exceed
83 2000 kegs per year.

84 d. Off-premises consumption in sealed containers, as
85 authorized under s. 563.06, in an amount not to exceed one keg
86 per consumer per day, provided that, if the total amount of malt
87 beverages brewed by the manufacturer and sold for consumption

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88 off the licensed premises in sealed containers exceeds 2000 kegs
89 per year, the total amount of malt beverages brewed by the
90 manufacturer and sold for consumption off the licensed premises
91 in sealed containers in excess of 2000 kegs per year does not
92 exceed 20 percent of the total malt beverages brewed on the
93 licensed premises.

94 2. Any other malt beverages, for on-premises consumption
95 only.

96 3. Any wine or liquor, for on-premises consumption only, as
97 authorized under its vendor's license.

98 (c) Notwithstanding subparagraph (b)2., a manufacturer
99 holding its vendor's license under this subsection as a quota
100 licensee pursuant to s. 565.02(1) may also sell malt beverages
101 brewed off the licensed premises, for off-premises consumption,
102 in sealed containers as authorized under s. 563.06 and its
103 vendor's license, only if the premises was licensed under s.
104 565.02(1) on or before October 1, 2014. This provision does not
105 prohibit the transfer of the license to another licensed
106 manufacturing premises owned by the manufacturer.

107 (d) Notwithstanding subparagraph (b)3., a manufacturer
108 holding its vendor's license under this subsection as a quota
109 licensee pursuant to s. 565.02(1) may also sell such alcoholic
110 beverages, for off-premises consumption, in sealed containers as
111 authorized under its vendor's license, only if the premises was
112 licensed under s. 565.02(1) on or before October 1, 2014. This
113 provision does not prohibit the transfer of the license to
114 another licensed manufacturing premises owned by the
115 manufacturer.

116 (e) Notwithstanding s. 561.57(1), the delivery of any such

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117 sealed container or growler off the vendor's licensed premises,
118 whether by common or premises carrier or by an operator of a
119 privately owned car, truck, bus, or other conveyance, is
120 prohibited. In addition, a consumer or other person may not
121 arrange for the delivery off the licensed manufacturing premises
122 to the consumer of any such sealed container or growler from a
123 vendor licensed under this subsection, whether by common or
124 premises carrier or by an operator of a privately owned car,
125 truck, bus, or other conveyance. However, this paragraph does
126 not prohibit a consumer from taking the sealed container or
127 growler, purchased by the consumer from a manufacturer licensed
128 as a vendor under this subsection, from the vendor's licensed
129 premises to another location by a privately owned car, truck,
130 bus, or other conveyance.

131 (f) The manufacturer shall maintain a record of all malt
132 beverages received from all of its licensed manufacturing
133 premises, including the amount of malt beverages received, the
134 licensed premises from which the malt beverages were
135 transferred, and the amount of malt beverages sold for off-
136 premises consumption in sealed containers, as authorized in s.
137 563.06(6). The division shall adopt rules pursuant to ss.
138 120.536(1) and 120.54 to implement the provisions of this
139 subparagraph (b)1. with respect to sales for off-premises
140 consumption and transfers between licensed manufacturing
141 premises.

142 (g) A manufacturer licensed as a vendor under this
143 subsection may hold a permanent food service license at the
144 licensed premises.

145 (h) This subsection is a limited exception to ss. 561.22

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146 and 561.42. Except as specifically provided in this subsection
147 to permit a manufacturer of malt beverages to also be licensed
148 as a vendor, a manufacturer of malt beverages is subject to the
149 restrictions in ss. 561.22 and 561.42.

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

154 1. The vendor will be engaged in brewing malt beverages at
155 a single location and in an amount that ~~which~~ will not exceed
156 10,000 kegs per year. As used in ~~For purposes of this section~~
157 ~~subsection,~~ the term "keg" means 15.5 gallons.

158 2. The malt beverages ~~se~~ brewed will be sold to consumers
159 only for consumption on the vendor's licensed premises or on
160 contiguous licensed premises owned or leased by the vendor.

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

167 (c) A ~~It shall be unlawful for any~~ licensed distributor of
168 malt beverages or an any officer, agent, or other representative
169 thereof may not ~~to~~ discourage or prohibit any vendor licensed as
170 a manufacturer under this subsection from offering malt
171 beverages brewed for consumption on the licensed premises of the
172 vendor.

173 (d) A ~~It shall be unlawful for any~~ manufacturer of malt
174 beverages or an any officer, agent, or other representative

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175 thereof may not ~~to~~ take any action to discourage or prohibit a
176 ~~any~~ distributor of the manufacturer's product from distributing
177 such product to a licensed vendor which is also licensed as a
178 manufacturer of malt beverages pursuant to this subsection.

179 Section 2. Section 561.37, Florida Statutes, is amended to
180 read:

181 561.37 Bond for payment of taxes.-

182 (1) Each manufacturer and each distributor must ~~shall~~ file
183 with the division a surety bond acceptable to the division in
184 the amount sum of \$25,000 as surety for the payment of all
185 taxes. ~~provided,~~ However, if that ~~when~~ in the discretion of the
186 division the amount of business done by the manufacturer or
187 distributor is of such volume that a bond in an amount of less
188 than \$25,000 will be adequate to secure the payment of all taxes
189 assessed or authorized by the Beverage Law, the division may
190 accept a bond in an amount of less ~~a lesser sum~~ than \$25,000,
191 but not ~~in no event shall it accept a bond of~~ less than \$10,000,
192 and it may at any time in its discretion require any bond in an
193 amount of less than \$25,000 to be increased so as not to exceed
194 \$25,000. ~~provided, however, that~~

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

197 (a) A brewer is \$5,000 ~~shall be \$20,000~~, except that if
198 ~~where,~~ in the discretion of the division, ~~the amount of business~~
199 done by the brewer is of such volume that a bond in an amount of
200 less than \$5,000 ~~\$20,000~~ will be adequate to secure the payment
201 of all taxes assessed or authorized by the Beverage Law, the
202 division may accept a bond in an amount of less ~~a lesser sum~~
203 than \$5,000 ~~\$20,000~~, but not ~~in no event shall it accept a bond~~

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204 ~~of less than \$2,500 \$10,000, and it may at any time in its~~
205 ~~discretion require any bond in an amount of less than \$5,000~~
206 ~~\$20,000 to be increased so as not to exceed \$5,000. \$20,000;~~
207 ~~provided further that the amount of the bond required for~~

208 (b) A wine or wine and cordial manufacturer ~~is shall be~~
209 \$5,000. ~~However, except that,~~ in the case of a manufacturer
210 engaged solely in the experimental manufacture of wines and
211 cordials from Florida products, if ~~where~~ in the discretion of
212 the division the amount of business done by such a manufacturer
213 is of such volume that a bond in an amount of less than \$5,000
214 will be adequate to secure the payment of all taxes assessed or
215 authorized by the Beverage Law, the division may accept a bond
216 in an amount of less ~~a lesser sum~~ than \$5,000, but not ~~in no~~
217 ~~event shall it accept a bond of less than \$1,000,~~ and it may at
218 any time in its discretion require a bond in an amount of less
219 than \$5,000 to be increased so as not to exceed \$5,000. ~~;~~
220 ~~provided, further, that the amount of bond required for~~

221 (c) A distributor who sells only beverages containing not
222 more than 4.007 percent of alcohol by volume, in counties where
223 the sale of intoxicating liquors, wines, and beers is
224 prohibited, or a distributor ~~and to distributors~~ who sells ~~sell~~
225 only beverages containing not more than 17.259 percent of
226 alcohol by volume and wines regardless of alcoholic content, in
227 counties where the sale of intoxicating liquors, wines, and
228 beers is permitted, is ~~shall file with the division a surety~~
229 ~~bond acceptable to the division in the sum of \$25,000., as~~
230 ~~surety for the payment of all taxes; provided,~~ if ~~that~~
231 ~~where~~ in the discretion of the division the amount of business
232 done by such a distributor is of such volume that a bond in an

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233 amount of less than \$25,000 will be adequate to secure the
234 payment of all taxes assessed or authorized by the Beverage Law,
235 the division may accept a bond in an amount of ~~a less sum~~ than
236 \$25,000, but not ~~in no event shall it accept a bond~~ less than
237 \$1,000, and it may at any time in its discretion require any
238 bond in an amount of less than \$25,000 to be increased so as not
239 to exceed \$25,000. ~~; provided, further, that the amount of bond~~
240 ~~required for~~

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

245 Section 3. For the purpose of incorporating the amendment
246 made by this act to section 561.221(2), Florida Statutes, in
247 reference thereto, subsection (14) of section 563.022, Florida
248 Statutes, is reenacted:

249 563.022 Relations between beer distributors and
250 manufacturers.—

251 (14) MANUFACTURER; PROHIBITED INTERESTS.—

252 (a) This subsection applies to:

253 1. A manufacturer;

254 2. Any officer, director, agent, or employee of a
255 manufacturer; or

256 3. An affiliate of any manufacturer, regardless of whether
257 the affiliation is corporate or by management, direction, or
258 control.

259 (b) Except as provided in paragraph (c), no entity or
260 person specified in paragraph (a) may have an interest in the
261 license, business, assets, or corporate stock of a licensed

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262 distributor nor shall such entity sell directly to any vendor in
263 this state other than to vendors who are licensed pursuant to s.
264 561.221(2).

265 (c) Any entity described in paragraph (a) may financially
266 assist a proposed distributor in acquiring ownership of the
267 distributorship through participation in a limited partnership
268 arrangement in which the entity described in paragraph (a) is a
269 limited partner and the proposed distributor seeking to acquire
270 ownership of the distributorship is the general partner. Such
271 limited partnership arrangements may exist for no longer than 8
272 years from their creation and shall not be extended or renewed
273 by means of a transfer of full ownership to an entity described
274 in paragraph (a) followed by the creation of a new limited
275 partnership or by any other means. In any such arrangement for
276 financial assistance, the federal basic permit and distributor's
277 license issued by the division shall be issued in the name of
278 the distributor and not in the name of an entity described in
279 paragraph (a). If, after the creation of a limited partnership
280 pursuant to this paragraph, an entity described in paragraph (a)
281 acquires title to the distributorship which was the subject of
282 the limited partnership, the entity described in paragraph (a)
283 shall divest itself of the distributorship within 180 days, and
284 the distributorship shall be ineligible for limited partnership
285 financing for 20 years thereafter. No entity described in
286 paragraph (a) shall enter into a limited partnership arrangement
287 with a licensed distributor whose distributorship existed and
288 was operated prior to the creation of such limited partnership
289 arrangement.

290 (d) Nothing in the Beverage Law shall be construed to

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291 prohibit a manufacturer from shipping products to or between its
292 breweries without a distributor's license.

293 (e) Notwithstanding the provisions of paragraph (b), any
294 entity named in paragraph (a) may have an interest in the
295 license, business, assets, or corporate stock of a licensed
296 distributor for a maximum of 180 consecutive days as the result
297 of a judgment of foreclosure against the distributor or for 180
298 consecutive days after acquiring title pursuant to the written
299 request of the licensed distributor. Under either of these
300 circumstances, manufacturer ownership of an interest in the
301 license, business, assets, or corporate stock of a licensed
302 distributor shall only be for 180 days and only for the purpose
303 of facilitating an orderly transfer of the distributorship to an
304 owner not affiliated with a manufacturer.

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

309 Section 4. Section 563.06, Florida Statutes, is amended to
310 read:

311 563.06 Malt beverages; imprint on individual container;
312 size of containers; growlers; exemptions.-

313 (1) ~~On and after October 1, 1959,~~ All taxable malt
314 beverages packaged in individual containers possessed by any
315 person in the state for the purpose of sale or resale in the
316 state, except operators of railroads, sleeping cars, steamships,
317 buses, and airplanes engaged in interstate commerce and licensed
318 under this section, must ~~shall~~ have imprinted thereon in clearly
319 legible fashion by any permanent method the word "Florida" or

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320 "FL" and no other state name or abbreviation of any state name
321 in not less than 8-point type. The word "Florida" or "FL" shall
322 appear first or last, if imprinted in conjunction with any
323 manufacturer's code. A facsimile of the imprinting and its
324 location as it will appear on the individual container must
325 ~~shall~~ be submitted to the division for approval.

326 (2) Nothing herein contained shall require such designation
327 to be attached to individual containers of malt beverages which
328 are transported through this state and which are not sold,
329 delivered, or stored for sale therein, if transported in
330 accordance with such rules and regulations as adopted by the
331 division; nor shall this requirement apply to malt beverages
332 packaged in individual containers and held on the premises of a
333 brewer or bottler, which malt beverages are for sale and
334 delivery to persons outside the state.

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

341 (4) Except as otherwise provided herein, any malt beverages
342 in individual containers held or possessed in the state for the
343 purpose of sale or resale within the state which do not bear the
344 word "Florida" or "FL" thereon shall, at the direction of the
345 division, be confiscated in accordance with the provisions of
346 the Beverage Law.

347 (5) (a) Nothing contained in this section shall require that
348 malt beverages packaged in individual containers and possessed

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349 by any person in the state for purposes of sale or resale in the
350 state have imprinted thereon the word "Florida" or "FL" if the
351 manufacturer of the malt beverages can establish before the
352 division that the manufacturer has a tracking system in place,
353 by use of code or otherwise, which enables the manufacturer,
354 with at least 85 percent reliability by July 1, 1996, and 90
355 percent reliability by January 1, 2000, to identify the
356 following:

357 1. The place where individual containers of malt beverages
358 were produced;

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

361 3. The individual distributors within the state which
362 received the individual containers of malt beverages.

363 (b) Prior to shipping individual containers of malt
364 beverages into the state which do not have the word "Florida" or
365 "FL" imprinted thereon, the manufacturer must file an
366 application with the division to claim the exemption contained
367 herein and must obtain approval from the division to ship
368 individual containers of malt beverages into the state which do
369 not have the word "Florida" or "FL" imprinted thereon.

370 Information furnished by the manufacturer to establish the
371 criteria contained within paragraph (a) may be subject to an
372 annual audit and verification by the division. The division may
373 revoke an approved exemption if the manufacturer refuses to
374 furnish the information required in paragraph (a) upon request
375 of the division, or if the manufacturer fails to permit a
376 subsequent verification audit, or if the manufacturer fails to
377 fully cooperate with the division during the conducting of an

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378 audit.

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

384 (6) All malt beverages packaged in individual containers
385 sold or offered for sale by vendors at retail in this state,
386 except for malt beverages authorized to be sold in growlers
387 pursuant to s. 563.061, must ~~shall~~ be in individual containers
388 containing no more than 32 ounces of such malt beverages.
389 ~~provided, however, that nothing contained in~~

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

394 (8) ~~(7)~~ A ~~Any~~ person, firm, or corporation, or any of its
395 agents, officers or employees, that violates ~~violating any of~~
396 ~~the provisions of this section~~ commits, ~~shall be guilty of a~~
397 misdemeanor of the first degree, punishable as provided in s.
398 775.082 or s. 775.083; and the license, if any, is ~~shall be~~
399 subject to revocation or suspension by the division.

400 Section 5. Section 563.061, Florida Statutes, is created to
401 read:

402 563.061 Malt beverages; filling or refilling of growlers.-

403 (1) "Growler" means a refillable container that is made of
404 glass, ceramic, metal, or similar leak-proof material and is
405 designed to contain a carbonated malt beverage in a capacity of
406 32 ounces, 64 ounces, or 128 ounces.

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

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

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

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

418 (c) A vendor holding a license under s. 563.02(1) (b)-(f),
419 s. 564.02(1) (b)-(f), or s. 565.02(1) (b)-(f), unless the license
420 restricts the sale of malt beverages only for consumption on the
421 licensed premises.

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

424 (5) The growler must be clearly labeled as containing an
425 alcoholic beverage and provide the name of the manufacturer, the
426 brand, the volume, the percentage of alcohol by volume, and the
427 required federal health warning notice for alcoholic beverages.
428 If a growler being refilled has an existing label or other
429 identifying mark of a manufacturer or brand from a prior filling
430 or refilling, that label must be covered sufficiently to
431 indicate the manufacturer and brand of the malt beverage being
432 placed in the container at that refilling.

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

434 (7) A licensee authorized to fill and refill growlers may
435 not use them for purposes of distribution or sale off the

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436 manufacturer's or vendor's licensed premises, except as
437 authorized under this section and s. 561.221(2).

438 Section 6. For the purpose of incorporating the amendments
439 made by this act to the Beverage Law, subsection (1) of section
440 561.11, Florida Statutes, is reenacted to read:

441 561.11 Power and authority of division.—

442 (1) The division has authority to adopt rules pursuant to
443 ss. 120.536(1) and 120.54 to implement the provisions of the
444 Beverage Law.

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