



286098

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2014	.	
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The Committee on Regulated Industries (Gibson) recommended the following:

1       **Senate Substitute for Amendment (563586) (with title**  
2 **amendment)**

3  
4       Delete everything after the enacting clause  
5 and insert:

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

8       561.221 Retail exceptions to manufacturing licenses;  
9 brewing exceptions to vendor licenses ~~Licensing of manufacturers~~  
10 ~~and distributors as vendors and of vendors as manufacturers;~~



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11 conditions and limitations.-

12 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
13 other provision of the Beverage Law prohibits the ownership,  
14 management, operation, or control of not more than three  
15 vendor's licenses for the sale of alcoholic beverages by a  
16 manufacturer of wine who is licensed and engaged in the  
17 manufacture of wine in this state, even if such manufacturer is  
18 also licensed as a distributor; provided that no such vendor's  
19 license shall be owned, managed, operated, or controlled by any  
20 licensed manufacturer of wine unless the licensed premises of  
21 the vendor are situated on property contiguous to the  
22 manufacturing premises of the licensed manufacturer of wine.

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

30 (2) A manufacturer of malt beverages which is licensed and  
31 engaged in the manufacture of malt beverages in this state may  
32 sell directly to consumers in face-to-face transactions, which,  
33 notwithstanding s. 561.57(1), requires the physical presence of  
34 the consumer to make payment for and take receipt of the  
35 beverages on the licensed manufacturing premises, if such  
36 manufacturer satisfies the requirements of paragraphs (a) or  
37 (b):

38 (a) At a taproom, a manufacturer may sell malt beverages  
39 brewed by the manufacturer to consumers for on-premises or off-



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40 premises consumption without obtaining a vendor's license. A  
41 manufacturer of malt beverages shall comply with the following  
42 requirements related to its taproom:

43 1. The taproom must be a room or rooms located on the  
44 licensed manufacturing premises consisting of a single complex,  
45 which must include a brewery. Such premises may be divided by a  
46 single public street or highway. The taproom shall be included  
47 on the sketch or diagram defining the licensed premises  
48 submitted with the manufacturer's license application pursuant  
49 to s. 561.01(11). All sketch or diagram revisions by the  
50 manufacturer must be approved by the division, verifying that  
51 the taproom operated by the licensed manufacturer is owned or  
52 leased by the manufacturer and is located on the licensed  
53 manufacturing premises.

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

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

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



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69 month for the previous month.

70 5. This paragraph does not preclude a licensed manufacturer  
71 of malt beverages which operates a taproom from holding a  
72 permanent public food service establishment license under  
73 chapter 509 for the taproom.

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

77 (b) The division ~~may~~ is authorized to issue a vendor's  
78 license licenses to a manufacturer of malt beverages for each of  
79 up to two licensed manufacturing premises for which the  
80 manufacturer has an interest, directly or indirectly, in the  
81 license if the manufacturer meets the following requirements:

82 1. A licensed manufacturer may obtain a vendor's license  
83 for each of up to two of the licensed manufacturing premises for  
84 which the manufacturer has an interest, directly or indirectly,  
85 in the license. Any additional licensed manufacturing premises  
86 for which the manufacturer has an interest, directly or  
87 indirectly, in the license may operate a taproom without a  
88 vendor's license pursuant to paragraph (a).

89 2. The vendor's license shall be located on the licensed  
90 manufacturing premises consisting of a single complex, which  
91 must include a brewery. Such premises may be divided by a single  
92 public street or highway. The licensed vendor premises shall be  
93 included on the sketch or diagram defining the licensed premises  
94 submitted with the manufacturer's license application pursuant  
95 to s. 561.01(11). All sketch or diagram revisions by the  
96 manufacturer must be approved by the division to verify that the  
97 vendor premises operated by the licensed manufacturer is owned



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98 or leased by the manufacturer and is located on the licensed  
99 manufacturing premises.

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

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

106 (I) On-premises consumption.

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

109 (III) Off-premises consumption in growlers pursuant to s.  
110 563.06(7).

111 b. Malt beverages manufactured exclusively by other  
112 manufacturers for:

113 (I) On-premises consumption.

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

116 (III) Off-premises consumption in growlers pursuant to s.  
117 563.06(7) by holders of a quota license.

118 c. Wine or liquor for on-premises or off-premises  
119 consumption as authorized under such vendor's license.

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



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127       5. This paragraph does not preclude a licensed manufacturer  
128 of malt beverages with a vendor's license from holding a  
129 permanent public food service establishment license under  
130 chapter 509 for the licensed manufacturing premises.

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

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



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

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

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

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

181 (b) A brewpub may sell alcoholic beverages in a face-to-  
182 face transaction with a consumer as follows:

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



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

188           3. Any wine or liquor for on-premises consumption as  
189 authorized under its vendor's license.

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

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

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

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

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

207           ~~(g)(c) A It shall be unlawful for any licensed distributor~~  
208 ~~of malt beverages or any officer, agent, or other representative~~  
209 ~~thereof may not to discourage or prohibit a brewpub any vendor~~  
210 ~~licensed as a manufacturer under this subsection from offering~~  
211 ~~malt beverages brewed for consumption on the licensed premises~~  
212 ~~of the brewpub vendor.~~

213           ~~(h)(d) A It shall be unlawful for any manufacturer of malt~~





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

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

221 561.5101 Come-to-rest requirement; exceptions; penalties.-

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

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

236 561.57 Deliveries by licensees.-

237 (6) Common carriers are not required to have vehicle  
238 permits to transport alcoholic beverages. Common carriers may  
239 not make deliveries of malt beverages directly to a consumer.

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

242 562.34 Containers; seizure and forfeiture.-



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

255           (3) ~~A It shall be unlawful for any person~~ may not ~~to~~  
256 transport any cans, jugs, jars, bottles, vessels, or any other  
257 type of containers intended to be used to bottle or package  
258 alcoholic beverages; however, this subsection does ~~section shall~~  
259 not apply to a any firm or corporation holding a license to  
260 manufacture or distribute such alcoholic beverages, a ~~and shall~~  
261 ~~not apply to any~~ person transporting such containers to a any  
262 person, firm, or corporation holding a license to manufacture or  
263 distribute such alcoholic beverages, or a person transporting a  
264 growler as defined in s. 563.06(7).

265           Section 5. Section 563.06, Florida Statutes, is amended to  
266 read:

267           563.06 Malt beverages; imprint on individual container;  
268 size of containers; growlers; exemptions.—

269           (1) ~~On and after October 1, 1959,~~ All taxable malt  
270 beverages packaged in individual containers possessed by any  
271 person in the state for the purpose of sale or resale in the



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272 state, except operators of railroads, sleeping cars, steamships,  
273 buses, and airplanes engaged in interstate commerce and licensed  
274 under this section, shall have imprinted thereon in clearly  
275 legible fashion by any permanent method the word "Florida" or  
276 "FL" and no other state name or abbreviation of any state name  
277 in not less than 8-point type. The word "Florida" or "FL" shall  
278 appear first or last, if imprinted in conjunction with any  
279 manufacturer's code. A facsimile of the imprinting and its  
280 location as it will appear on the individual container shall be  
281 submitted to the division for approval.

282 (2) Nothing herein contained shall require such designation  
283 to be attached to individual containers of malt beverages which  
284 are transported through this state and which are not sold,  
285 delivered, or stored for sale therein, if transported in  
286 accordance with such rules and regulations as adopted by the  
287 division; nor shall this requirement apply to malt beverages  
288 packaged in individual containers and held on the premises of a  
289 brewer or bottler, which malt beverages are for sale and  
290 delivery to persons outside the state.

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

297 (4) Except as otherwise provided herein, any malt beverages  
298 in individual containers held or possessed in the state for the  
299 purpose of sale or resale within the state which do not bear the  
300 word "Florida" or "FL" thereon shall, at the direction of the



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301 division, be confiscated in accordance with the provisions of  
302 the Beverage Law.

303 (5) (a) Nothing contained in this section shall require that  
304 malt beverages packaged in individual containers and possessed  
305 by any person in the state for purposes of sale or resale in the  
306 state have imprinted thereon the word "Florida" or "FL" if the  
307 manufacturer of the malt beverages can establish before the  
308 division that the manufacturer has a tracking system in place,  
309 by use of code or otherwise, which enables the manufacturer,  
310 with at least 85 percent reliability by July 1, 1996, and 90  
311 percent reliability by January 1, 2000, to identify the  
312 following:

313 1. The place where individual containers of malt beverages  
314 were produced;

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

317 3. The individual distributors within the state which  
318 received the individual containers of malt beverages.

319 (b) Prior to shipping individual containers of malt  
320 beverages into the state which do not have the word "Florida" or  
321 "FL" imprinted thereon, the manufacturer must file an  
322 application with the division to claim the exemption contained  
323 herein and must obtain approval from the division to ship  
324 individual containers of malt beverages into the state which do  
325 not have the word "Florida" or "FL" imprinted thereon.  
326 Information furnished by the manufacturer to establish the  
327 criteria contained within paragraph (a) may be subject to an  
328 annual audit and verification by the division. The division may  
329 revoke an approved exemption if the manufacturer refuses to



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330 furnish the information required in paragraph (a) upon request  
331 of the division, or if the manufacturer fails to permit a  
332 subsequent verification audit, or if the manufacturer fails to  
333 fully cooperate with the division during the conducting of an  
334 audit.

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

340 (6) With the exception of growlers as defined in subsection  
341 (7), all malt beverages packaged in individual containers sold  
342 or offered for sale by vendors at retail in this state shall be  
343 in individual containers containing no more than 32 ounces of  
344 such malt beverages; ~~provided,~~ however, ~~that~~ nothing contained  
345 in this section shall affect malt beverages packaged in bulk, ~~or~~  
346 in kegs, or in barrels or in any individual container containing  
347 1 gallon or more of such malt beverage regardless of individual  
348 container type.

349 (7) (a) As used in the Beverage Law, the term "growler"  
350 means any container between 32 ounces and 128 ounces in size  
351 which was originally manufactured to hold malt beverages.

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

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

356 2. A malt beverage manufactured by a manufacturer that  
357 holds a valid manufacturer's license and a valid vendor's  
358 license pursuant to s. 561.221(2) (b).



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

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

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

367           (d) A growler must be clearly labeled as containing an  
368 alcoholic beverage and provide the name of the manufacturer, the  
369 brand, the volume, the percentage of alcohol by volume, and the  
370 required label information for alcoholic beverages under 27  
371 C.F.R. s. 16.21. If a growler being refilled has an existing  
372 label or other identifying mark from a manufacturer or brand,  
373 that label shall be covered sufficiently to indicate the  
374 manufacturer and brand of the malt beverage placed in the  
375 growler.

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

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

380           ~~(8)(7)~~ A Any person, firm, or corporation, or an agent,  
381 officer, or employee thereof, who violates, its agents, officers  
382 or employees, violating any of the provisions of this section  
383 commits, shall be guilty of a misdemeanor of the first degree,  
384 punishable as provided in s. 775.082 or s. 775.083,<sup>7</sup> and the  
385 license, if any, shall be subject to revocation or suspension by  
386 the division.

387           Section 6. If a provision of s. 561.221(2), Florida



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388 Statutes, as amended by this act, is held invalid, or if the  
389 application of that subsection to any person or circumstance is  
390 held invalid, the invalidity does not affect other provisions or  
391 applications of this act which can be given effect without the  
392 invalid provision or application, and to this end s. 561.221(2),  
393 Florida Statutes, is severable.

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

395

396 ===== T I T L E A M E N D M E N T =====

397 And the title is amended as follows:

398 Delete everything before the enacting clause

399 and insert:

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A bill to be entitled

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An act relating to malt beverages; amending s.

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561.221, F.S.; providing requirements for a licensed

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manufacturer of malt beverages to sell such beverages

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directly to consumers; providing requirements for a

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taproom; prohibiting a manufacturer from holding a

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vendor's license at specified premises; providing

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requirements for a licensed manufacturer to obtain a

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vendor's license; specifying the circumstances under

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which a manufacturer may sell alcoholic beverages

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under its vendor's license; requiring a manufacturer

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to complete certain reports; providing applicability;

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providing requirements for a brewpub to be licensed as

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a manufacturer or vendor; providing requirements that

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must be satisfied by a brewpub before selling

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alcoholic beverages to consumers; amending s.

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561.5101, F.S.; conforming a cross-reference; amending



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417 s. 561.57, F.S.; prohibiting common carriers from  
418 making deliveries of malt beverages to consumers;  
419 amending s. 562.34, F.S.; providing that possessing  
420 and transporting a growler is lawful; amending s.  
421 563.06, F.S.; defining the term "growler"; providing  
422 requirements for growlers; providing construction and  
423 severability; providing an effective date.