

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 911 City of Panama City, Bay County

SPONSOR(S): Local & Federal Affairs Committee; Patronis

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	16 Y, 1 N, As CS	Flegiel	Rojas
2) Regulatory Affairs Committee	14 Y, 0 N	Butler	Hamon

SUMMARY ANALYSIS

Panama City allows the sale, possession and consumption of alcoholic beverages (beverages) during designated special events held in its downtown centers. Properly licensed temporary vendors may sell beverages in the event areas. However, downtown restaurants are prohibited from allowing customers to carry beverages off-premises into the event areas, despite the presence of beverage vendors and the City's allowance of beverage possession and consumption.

CS/HB 911 defines two areas where the City typically holds special events during which the sale, possession and consumption of beverages is allowed. The bill requires the Department of Business and Professional Regulation (DBPR) to allow restaurants and other licensees in the event areas to let patrons exit the premises with open containers. The bill requires DBPR to grant allowances up to 15 times per year in each defined area.

This bill will take effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Throughout the year, the City of Panama City holds a number of festivals and special events in its urban cores. For example, the City's Downtown Improvement Board (DIB) hosts "Friday Fest," a monthly downtown street festival with live music and vendors set up along downtown streets adjacent to local shops and restaurants.

During these special events, the City allows individuals to possess, sell and consume open alcoholic beverages on public rights-of-way, provided they stay within the event area.¹ Under state law, non-profit civic organizations (vendors) are allowed to sell beverages in the event area,² but restaurants are prohibited by their licenses from selling beverages for customers to consume off-premises.³ Thus, if an individual desires to walk around the festival with a beverage, they must purchase it from a vendor.

City Ordinances

Panama City Ordinances prohibit the possession, consumption and sale of any open container containing an alcoholic beverage in or on any public way within the municipal limits.⁴ However, the city council may provide exceptions to this rule during designated times and in designated areas.⁵

State Beverage Law

The Division of Alcoholic Beverages and Tobacco (ABT) of Department of Business and Professional Regulation (DBPR) is responsible for enforcement of the state Beverage Law. DBPR may issue one alcoholic beverage license for every 7,500 residents in a county.⁶

One exception to this rule allows non-profit civic organizations to sell alcoholic beverages for consumption on-premises for a period not to exceed 3 days by obtaining an ABT 6003 permit.⁷ Each non-profit civic organization may receive only three such permits per calendar year. "On-premises" in this case may include a park or public street where an event is being held. In Panama City, DIB obtains this permit to allow the sale of alcoholic beverages by non-profit civic organizations.

A second exception to this rule is for restaurants, which may obtain a beverage license provided certain conditions are met.⁸ However, restaurants under this exception may not operate as a "package store," meaning they cannot sell alcohol for consumption off-premises. This limitation prevents restaurants from allowing customers from leaving the premises with open containers, even when the possession of said containers is allowed under local law.

Officials in Panama City know of at least one instance of DBPR citing a restaurant for allowing patrons to leave with open containers while an event allowing open containers was on going.⁹

¹ Section 3-3(c), Panama City Municipal Code.

² Section 561.422, F.S.

³ Section 561.20(2)(a)(4), F.S.

⁴ Section 3-3(b), Panama City Municipal Code.

⁵ Section 3-3(c), Panama City Municipal Code.

⁶ Section 561.20(1), F.S.

⁷ Section 561.422, F.S.

⁸ Section 561.20(2)(a)(4), F.S.

⁹ Per Nevin Zimmerman, Panama City Attorney.

Effect of Proposed Changes

The bill creates two entertainment districts in Panama City: the Historic St. Andrews Entertainment District and the Historic Downtown Entertainment District. The St. Andrews Entertainment District is centered around Bell Avenue and comprises approximately 10 city blocks located along St. Andrews Bay and adjacent to St. Andrews Marina. The Downtown Entertainment District is centered around Harrison Avenue and is comprised of over 30 city blocks. The Downtown District is bounded by 6th Avenue to the North, Massalina Bayou to the East and St. Andrews Bay to the South and West.

The bill requires DBPR to allow restaurants and other licensees located within the entertainment districts to let patrons exit the premises with open containers. DBPR may only grant the allowance for the duration of special events held within the entertainment districts. Only a holder of a valid alcoholic beverages license may qualify for the allowance. No special application or permit is required to receive the allowance; it will be conferred automatically upon the holding of a special event. The allowance applies only to special events when the city permits the open consumption of beverages. Once DBPR has granted allowances for 15 events in an entertainment district in a given year, it may not grant any more allowances for that district until the beginning of the next year.

The bill does not change the current operation of s. 561.422, F.S., or increase the number of temporary alcoholic beverage permits beyond 3 that a non-profit civic organization may receive in a calendar year.

B. SECTION DIRECTORY:

- Section 1 Creates and defines the boundaries of the Historic St. Andrews Entertainment District and the Historic Downtown Entertainment District.
- Section 2 Requires DBPR to grant a special allowance to beverage license holders within the entertainment districts to allow patrons to exit the premises with open containers.
- Section 3 Provides that the bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 27, 2013

WHERE? *The News Herald*, a daily newspaper published at Panama City, in Bay County, FL.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.¹⁰

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2014, the Local & Federal Affairs Committee adopted one amendment, striking line 70 and inserting language, and reported the bill favorably as a committee substitute. The amendment clarifies what type of beverages patrons may carry off the premises.

This analysis has been updated to reflect the amendment.

¹⁰ Department of Business and Professional Regulation Legislative Bill Analysis for HB 911. Mar. 3, 2014.
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DATE: 3/27/2014