

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1329 City of Winter Park, Orange County

SPONSOR(S): Miller

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	13 Y, 0 N	Zaborske	Miller
2) Local & Federal Affairs Committee	13 Y, 3 N	Zaborske	Kiner

SUMMARY ANALYSIS

Current law requires bona fide restaurants and bona fide hotels, motels, or motor courts to obtain an alcoholic beverage license in order to legally service alcoholic beverages. The bill repeals special acts exempting bona fide restaurants, hotels, motels, or motor courts in the City of Winter Park from that license requirement.

The bill does not appear to have any impact on local or state revenues or expenditures.

The act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licensing

Current law places a cap on one alcoholic beverage license for every 7,500 residents of a county.¹ Orange County's current population is approximately 1.2 million.² The Department of Business and Professional Regulation (DBPR), however, may issue Special Restaurant Beverage (SRX) licenses in excess of the quota limitation set forth in s. 561.20(1), F.S.³ SRX licenses may only be issued to restaurants with 2,500 or more square feet of floor space and accommodations for the service and seating of at least 150 full-service customers.⁴ Most restaurants must receive at least 51 percent of their total gross revenue from the sale of food and non-alcoholic beverages to qualify for a SRX license, but some older restaurants may qualify at a lower total gross revenue threshold.⁵ A restaurant must offer full course meal service at any time alcohol beverages are being served to qualify for a license.⁶ A full course meal must contain a salad or vegetable, entrée, beverage, and bread.⁷ The annual fee for a SRX license is between \$850 and \$1,820, depending on the county's population.⁸

DBPR also may issues hotels and motels Special Hotel (SH)⁹ or Special Motel/Hotel (S)¹⁰ licenses to any bona fide hotel, motel, or motor court with at least 100 guest rooms in any county with 50,000 or more residents.¹¹ Also, a bona fide hotel or motel located in a historic structure with fewer than 100 guest rooms and which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms and which is licensed as a public lodging establishment by the Division of Hotels and Restaurant.¹² To be a bona fide hotel, motel, or motor court:

- The business must be advertised and held out to the public to be a hotel, motel, or motor court;
- The licenses required for proper operation, must reflect hotel, motel, or motor court;
- The premises must establish and maintain daily, weekly and monthly rates, on all transient guest rooms, as required for a hotel, motel, or motor court licenses;
- The premises must establish and maintain registration records and procedures and supply such services as linen, maid service, telephone, etc.;
- All utilities must be under the name of the premises and paid for by same; and
- The primary operation of such premises shall be the operation of a bona fide hotel, motel, motor court, and at all times maintain sufficient equipment for the operation of same, and at no time

¹ S. 561.20(1), F.S.

² United States Census Bureau, State & County QuickFacts, Orange County, Florida, 2013 Population Estimate, available at <http://quickfacts.census.gov/qfd/states/12/12095.html> (last visited 03/20/2015).

³ Rule 61A-3.0141, F.A.C.

⁴ S. 561.20(2)(a)4., F.S.

⁵ Rule 61A-3.0141(3), F.A.C. This provision applies to all licenses issued after April 18, 1972. For licenses issued between September 1, 1969, and April 18, 1972, at least 30 percent of the restaurant's total gross revenue must be derived from the sale of food and non-alcoholic beverages; for licenses issued prior to September 1, 1969, there is no minimum gross revenue threshold, but the restaurant must be "bona fide" and meet the other requirements of the rule.

⁶ Rule 61A-3.0141(3)(d), F.A.C.

⁷ *Id.*

⁸ Fla. Dept. of Business and Professional Regulation, Division of Alcoholic Beverages & Tobacco, License Search, available at <http://www.myfloridalicense.com/dbpr/abt/licenses.html> (last visited 03/20/2015).

⁹ S. 561.20, F.S.

¹⁰ S. 561.20(2), F.S.

¹¹ S. 561.20(2)(a)1., F.S. A license also may be available for certain hotels or motels in an historic building if the hotel derives at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages. *Id.*

¹² *Id.*

shall the premises be maintained solely for the purpose of sale and service of alcoholic beverages.¹³

The annual fee for a SH or S license is between \$624 and \$1820, depending on the county's population.¹⁴

Winter Park Special Zone

In 1963, the Legislature passed a special law exempting from the licensure requirements in s. 561.20(1), F.S., any bona fide Winter Park restaurant containing all necessary equipment and supplies for serving full course meal regularly and which has the accommodations to serve 200 or more patrons at tables at all times and which occupies more than 4,000 square feet of floor space.¹⁵ The law prohibited a restaurant granted such a special restaurant license from selling alcoholic beverages in packages for consumption off the premises, from operating as a packaging store, or from having a bar.¹⁶ In 1965 the special law was amended to also exempt a bona fide Winter Park hotel, motel, or motor court of not less than 100 guest rooms.¹⁷ The 1965 law, like the 1963 law, prohibits such a restaurant from selling alcoholic beverages in packages for consumption off the premises or from operating as a packaging store, but not from having a bar or from operating in conjunction with any other business other than a hotel, motel, or motor court.¹⁸ The 1965 law maintained a prohibition against moving the license to a new location.¹⁹

Effect of Proposed Changes

The bill repeals the special acts exempting bona fide restaurants, hotels, motels, or motor courts in Winter Park from the licensure requirements in s. 561.20(1), F.S.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 63-2047 and 65-2402, Laws of Fla., relating to alcoholic beverage license exemptions in the City of Winter Park.

Section 2: The act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2015

WHERE? Orlando Sentinel

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

¹³ Rule 61A-3.043(2), F.A.C.

¹⁴ Fla. Dept. of Business and Professional Regulation, Division of Alcoholic Beverages & Tobacco, Types of Licenses & Permits, Chart: License Series Types ABT, available at <http://www.myfloridalicense.com/dbpr/abt/licenses.html> (last visited 03/20/2015).

¹⁵ Ch. 63-2047, Laws of Fla.

¹⁶ *Id.*

¹⁷ Ch. 65-2402, Laws of Fla.

¹⁸ *Id.*

¹⁹ *Id.*; Ch. 63-2047, Laws of Fla.

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES