

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 301 Malt Beverages
SPONSOR(S): Sprowls and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 186

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N	Butler	Luczynski
2) Government Operations Appropriations Subcommittee	9 Y, 1 N	Topp	Topp
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor, and vendor. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation is responsible for enforcing the provisions of the Beverage Law.

Current law permits manufacturers to package malt beverages that are offered for sale by vendors in individual containers containing no more than 32 ounces. However, malt beverages may be packaged in bulk or in kegs or in barrels or in any individual container containing one gallon or more of malt beverages regardless of individual container type.

The bill permits certain vendors and manufacturers to package malt beverages at the point of sale in containers of 32, 64, or 128 ounces by volume. Furthermore, the bill requires that containers include information specifying the manufacturer and brand of the malt beverage it contains, and that it must have an unbroken seal or be incapable of being immediately consumed.

The bill is expected to have a minimal fiscal impact on the Department of Business and Professional Regulation (DBPR) which can be absorbed within existing resources. The bill is expected to have no impact on local government.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Alcoholic Beverages Regulation Generally

The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

In general, Florida's Beverage Law provides for a structured three-tiered distribution system consisting of the manufacturer, distributor, and vendor. The manufacturer creates the beverages. The distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor makes the ultimate sale to the consumer. In the three-tiered system, alcoholic beverage excise taxes generally are collected at the distribution level based on inventory depletions and the state sales tax is collected at the retail level.

Container Size

Currently, s. 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors be packaged in individual containers of no more than 32 ounces. However, malt beverages may be packaged in bulk or in kegs or in barrels or in any individual container containing one gallon or more of malt beverages regardless of individual container type. The industry developed bottles, cans, kegs, and other containers, as well as the shipping equipment to protect and distribute bottles, cans, and kegs based on industry standard sizes. Distributors have created a nationwide distribution system with the capacity to transport industry standard sized containers.¹

Growlers

Some states permit vendors to sell malt beverages in containers known as growlers, which typically are reusable containers of between 32 ounces and two liters (67.628 ounces) that the consumer can take to a manufacturer/vendor to be filled with malt beverage for consumption off the licensed premises.² The standard size for a growler is 64 ounces.³ Florida malt beverage law does not specifically address growlers.

Florida malt beverage law does not permit the use of 64 ounce containers or any other container size between 32 ounces and one gallon. As a result, growlers are prohibited in any sizes other than 32 ounces or less, and one gallon.

Effect of the Bill

Container Size

The bill provides that notwithstanding s. 563.06(6), F.S., or any other provision of the Beverage Law, a malt beverage may be packaged in an individual container that holds 32, 64, or 128 ounces by volume, if filled at the point of sale by an allowed vendor or manufacturer.

¹ Testimony, Workshop on Craft Brewers Business Development Regulatory Issues, Business & Professional Regulation Subcommittee (Jan. 9, 2013).

² BeerAdvocate, *The Growler: Beer-To-Go!*, (July 31, 2002) <http://www.beeradvocate.com/articles/384/>.

³ Brew-Tek, *What is a Growler?*, <http://www.brew-tek.com/products/growlers/what-is-a-growler/> (last visited Feb. 6, 2015).

The bill allows manufacturers and vendors with the following licenses to fill individual containers (growlers):

- A manufacturer with any vendor's license;⁴
- A vendor with a quota license that is restricted to package sales only;
- A vendor with a license that permits the sale of malt beverages only for consumption on premises or package sales;
- A vendor with a license that permits the sale of malt beverages and wine for consumption on premises or package sales;
- A vendor with a quota license for consumption on premises or package sales.

The new container sizes authorized for use as growlers are limited to use as specified and may not be used for purposes of distribution or sale outside the manufacturer's or vendor's licensed premises.

Growlers

Growlers must meet the following requirements to be considered an appropriate individual container as allowed by this bill. Each growler, before being sold to the consumer must:

- Include an imprint or label that provides information specifying the manufacturer and the brand of the malt beverage;
- Have an unbroken seal or be incapable of being immediately consumed.

Sale of growlers is restricted by the bill to only licensees authorized to fill growlers. The bill establishes a first degree misdemeanor penalty for any person, firm, or corporation, including its agents, officers, or employees, who sells a growler without one of the authorized license types. In addition, it authorizes the division to suspend or revoke the license and impose a fine up to \$250 for authorized licensees who violate the label or seal requirements for the specified container types.

B. SECTION DIRECTORY:

Section 1 amends s. 563.06, F.S., allowing individual containers containing malt beverages of 32, 64, and 128 ounces by volume to be sold, under certain conditions.

Section 2 provides that the bill will become effective upon becoming law.

⁴ The bill authorizes a manufacturer with a vendor license under s. 561.221(2), F.S., referred to as the "tourist exception" but not a vendor with a manufacturer license under s. 561.221(3), F.S., also called a brewpub license.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DBPR estimates that the bill may result in a minimal increase in revenues as a result of authorizing the sale of 64 ounce growler containers.⁵

2. Expenditures:

Authorizing the individual 64 ounce malt beverage containers will add one step to the DBPR inspection process to verify that vendors are selling authorized containers and correctly listing the manufacturer and the brand on the malt beverage containers.

DBPR indicates that all workload associated with implementing the provisions of the bill are minimal and can be addressed within existing resources.⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may help generate additional revenue by authorizing certain licensees to sell 64 ounce growlers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁵ Department of Business and Professional Regulation – Bill Analysis, page 5, January 8, 2015.

⁶ Department of Business and Professional Regulation – Bill Analysis, page 2, January 8, 2015.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.