

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1417 Hillsborough County
SPONSOR(S): Young
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 0 N	Renner	Miller
2) Business & Professions Subcommittee	12 Y, 0 N	Butler	Anstead
3) Local & Federal Affairs Committee	13 Y, 0 N	Renner	Kiner

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses who wish to serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a Special Restaurant Beverage license (SRX), which allows a restaurant to sell any alcoholic beverage, including liquor, under certain circumstances.

Under the general state law, a restaurant may be issued an SRX license if it has at least 2,500 square feet of service area, is equipped to serve 150 full-service customers, and derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages.

In 1970, the Legislature enacted ch. 70-718, Laws of Florida, to provide a local exception that lowered the requirements for a restaurant to obtain an SRX license for restaurants in Hillsborough County. Under the local exception, a restaurant may be issued an SRX license if it has at least 4,000 square feet of overall floor capacity, is equipped to serve 150 full-service customers, and derives at least 51 percent of its gross revenue from the sale of food. Previously, general law required a restaurant to be at least 4,000 square feet, serve 200 customers, and derive 51 percent of gross revenue from food.

The bill amends the local exception to reduce the square foot requirement to require no less than 2,500 square feet of overall floor capacity and to allow the sale of nonalcoholic beverages to be included with food from which the restaurant needs to derive at least 51 percent of its gross revenue.

Lastly, the bill provides that the Division of Alcoholic Beverages and Tobacco (DABT) within the DBPR is authorized to issue rules, supervise SRX licenses issued, and revoke or suspend the SRX licenses for violations of the Beverage Law.

The Economic Impact Statement projects an increase in sales tax and licensing revenue for DBPR.

The bill takes 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. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The DABT within 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.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell malt beverages or wine; however, s. 561.20, F.S., limits the number of licenses that may be issued for licenses under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three (3) licenses per county that has approved the sale of intoxicating liquors.¹ This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.²

There are several exceptions to the quota license limitation, and businesses who meet the requirements set out in one of the exceptions pursuant to s. 561.20(2), F.S., may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.

One such license is the SRX license, which may be issued to a "restaurant having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages" so long as any alcoholic beverages sold under such license is for on premises consumption only.³ Some older restaurants may qualify at a lower total gross revenue threshold.⁴ A restaurant must offer full course meal service at any time alcohol beverages are being served to qualify for a license.⁵ A full course meal must contain a salad or vegetable, entrée, beverage, and bread.⁶

In 1970, the Legislature enacted ch. 70-718, Laws of Florida, to provide, at the time, lower requirements for the issuance of SRX licenses for restaurants in Hillsborough County.⁷ The local exception specifies that restaurants must have a seating capacity of no less than 100 seats, an overall floor capacity of 4,000 square feet, and derive no less than 51 percent of gross income from the sale of food that is prepared, served, and consumed on the premises in order to qualify for the license. Additionally, DBPR is authorized to regulate and supervise the SRX licenses issued to restaurants and to revoke or suspend SRX licenses for violations of the Beverage Law.

¹ s. 561.20(1), F.S.

² s. 565.02, F.S.

³ s. 561.20(2)(a)4., F.S.

⁴ Rule 61A-3.0141, 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 thirty 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.

⁵ *Id.*

⁶ *Id.*

⁷ In 1970, the general state law required a restaurant to have an overall floor capacity of 4,000 square feet, have a seating capacity of at least 200 seats, and derive at least 51 percent of gross income from the sale of food. The Hillsborough local exception only modified the seating capacity requirement. s.

Effect of Proposed Changes

The bill amends ch. 70-718, Laws of Florida, by revising the space requirements for the issuance of SRX licenses to certain restaurants in Hillsborough County. Specifically, the bill reduces the overall required floor capacity from 4,000 square feet to no less than 2,500 square feet for a restaurant. Restaurants must still have a seating capacity of no less than 100 seats.

Additionally, the bill includes the sale of nonalcoholic beverages as part of the 51 percent or more of gross income required in order for a restaurant to receive the SRX license. Lastly, the bill specifies that the DABT is authorized to issue rules, supervise SRX licenses issued, and revoke or suspend the SRX licenses for violations of the Beverage Law.

B. SECTION DIRECTORY:

Section 1 Amends ch. 70-718, Laws of Florida, by revising space and income requirements for the issuance of alcoholic beverage licenses to certain restaurants in Hillsborough County.

Section 2 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 12, 2015

WHERE? *The Tampa Tribune*, a daily newspaper located in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

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:

The bill does not provide rulemaking authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.