



103886

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2016	.	
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The Committee on Regulated Industries (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 210.13, Florida Statutes, is amended to
read

210.13 Determination of tax on failure to file a return.—If
a dealer or other person required to remit the tax under this
part fails to file any return required under this part, or
having filed an incorrect or insufficient return, fails to file



103886

11 a correct or sufficient return, as the case may require, within
12 10 days after the giving of notice to the dealer by the Division
13 of Alcoholic Beverages and Tobacco that such return or corrected
14 or sufficient return is required, the division shall determine
15 the amount of tax due by such dealer any time within 3 years
16 after the making of the earliest sale included in such
17 determination and give written notice of such determination to
18 such dealer. Such a determination shall finally and irrevocably
19 fix the tax unless the dealer against whom it is assessed shall,
20 within 30 days after the giving of notice of such determination,
21 apply to the division for a hearing. Judicial review shall not
22 be granted unless the amount of tax stated in the decision, with
23 penalties thereon, if any, shall have been first deposited with
24 the division, and an undertaking or bond filed in the court in
25 which such cause may be pending in such amount and with such
26 sureties as the court shall approve, conditioned that if such
27 proceeding be dismissed or the decision of the division
28 confirmed, the applicant for review will pay all costs and
29 charges which may accrue against the applicant in the
30 prosecution of the proceeding. At the option of the applicant,
31 such undertaking or bond may be in an additional sum sufficient
32 to cover the tax, penalties, costs, and charges aforesaid, in
33 which event the applicant shall not be required to pay such tax
34 and penalties precedent to the granting of such review by such
35 court.

36 Section 2. Paragraph (a) of subsection (1) of section
37 218.32, Florida Statutes, is amended to read

38 218.32 Annual financial reports; local governmental
39 entities.-



103886

40 (1) (a) Each local governmental entity that is determined to
41 be a reporting entity, as defined by generally accepted
42 accounting principles, and each independent special district as
43 defined in s. 189.012, shall submit to the department a copy of
44 its annual financial report for the previous fiscal year in a
45 format prescribed by the department. The annual financial report
46 must include a list of each local governmental entity included
47 in the report and each local governmental entity that failed to
48 provide financial information as required by paragraph (b). The
49 annual financial report must also include all revenues derived
50 from the use of temporary permits obtained by a reporting entity
51 pursuant to s. 561.422. The chair of the governing body and the
52 chief financial officer of each local governmental entity shall
53 sign the annual financial report submitted pursuant to this
54 subsection attesting to the accuracy of the information included
55 in the report. The county annual financial report must be a
56 single document that covers each county agency.

57 Section 3. Subsection (22) is added to section 561.01,
58 Florida Statutes, to read:

59 561.01 Definitions.—As used in the Beverage Law:

60 (22) “Railroad transit station” means a platform or
61 terminal facility where passenger trains operating on a guided
62 rail system according to a fixed schedule between two or more
63 cities regularly stop to load and unload passengers or goods.
64 The term includes a passenger waiting lounge or dining, retail,
65 entertainment, or recreational facilities within the premises
66 owned or leased by the railroad operator or owner.

67 Section 4. Paragraphs (h) and (i) of subsection (1) of
68 section 561.29, Florida Statutes, are amended to read:



103886

69 561.29 Revocation and suspension of license; power to
70 subpoena.—

71 (1) The division is given full power and authority to
72 revoke or suspend the license of any person holding a license
73 under the Beverage Law, when it is determined or found by the
74 division upon sufficient cause appearing of:

75 (h) Failure by the holder of any license under s. 561.20(1)
76 to maintain the licensed premises in an active manner in which
77 the licensed premises are open for the bona fide sale of
78 authorized alcoholic beverages during regular business hours of
79 at least 6 hours a day for a period of 120 days or more during
80 any 12-month period commencing 18 months after the acquisition
81 of the license by the licensee, regardless of the date the
82 license was originally issued. Every licensee must notify the
83 division in writing of any period during which his or her
84 license is inactive and place the physical license with the
85 division to be held in an inactive status. The division shall,
86 upon written request of the licensee, give a written waiver or
87 extension of the requirement of this paragraph for a period not
88 to exceed 12 months ~~may waive or extend the requirement of this~~
89 ~~section upon the finding of hardship, including the purchase of~~
90 ~~the license in order to transfer it to a newly constructed or~~
91 ~~remodeled location. However, during such closed period, the~~
92 ~~licensee shall make reasonable efforts toward restoring the~~
93 ~~license to active status.~~ This paragraph shall apply to all
94 annual license periods commencing on or after July 1, 1981, but
95 shall not apply to licenses issued after September 30, 1988.

96 (i) Failure of any licensee issued a new or transfer
97 license after September 30, 1988, under s. 561.20(1) to maintain



103886

98 the licensed premises in an active manner in which the licensed
99 premises are open for business to the public for the bona fide
100 retail sale of authorized alcoholic beverages during regular and
101 reasonable business hours for at least 8 hours a day for a
102 period of 210 days or more during any 12-month period commencing
103 6 months after the acquisition of the license by the licensee.
104 It is the intent of this act that for purposes of compliance
105 with this paragraph, a licensee shall operate the licensed
106 premises in a manner so as to maximize sales and tax revenues
107 thereon; this includes maintaining a reasonable inventory of
108 merchandise, including authorized alcoholic beverages, and the
109 use of good business practices to achieve the intent of this
110 law. Any attempt by a licensee to circumvent the intent of this
111 law shall be grounds for revocation or suspension of the
112 alcoholic beverage license. Every licensee must notify the
113 division in writing of any period during which his or her
114 license is inactive and place the physical license with the
115 division to be held in an inactive status. The division shall
116 ~~may~~, upon written request of the licensee, give a written waiver
117 or extension of the ~~this~~ requirement of this paragraph for a
118 period not to exceed 24 ~~12~~ months ~~in cases where the licensee~~
119 ~~demonstrates that the licensed premises has been physically~~
120 ~~destroyed through no fault of the licensee, when the licensee~~
121 ~~has suffered an incapacitating illness or injury which is likely~~
122 ~~to be prolonged, or when the licensed premises has been~~
123 ~~prohibited from making sales as a result of any action of any~~
124 ~~court of competent jurisdiction. Any waiver given pursuant to~~
125 ~~this subsection may be continued upon subsequent written request~~
126 ~~showing that substantial progress has been made toward restoring~~



103886

127 ~~the licensed premises to a condition suitable for the resumption~~
128 ~~of sales or toward allowing for a court having jurisdiction over~~
129 ~~the premises to release said jurisdiction, or that an~~
130 ~~incapacitating illness or injury continues to exist. However, in~~
131 ~~no event may the waivers necessitated by any one occurrence~~
132 ~~cumulatively total more than 24 months. Every licensee shall~~
133 ~~notify the division in writing of any period during which his or~~
134 ~~her license is inactive and place the physical license with the~~
135 ~~division to be held in an inactive status.~~

136 Section 5. Section 561.4205, Florida Statutes, is created
137 to read:

138 561.4205 Keg deposits; limited alternative inventory and
139 reconciliation process.—

140 (1) A distributor selling an alcoholic beverage to a
141 vendor in bulk, by recyclable keg or other similar reusable
142 container, for the purpose of sale in draft form on tap, must
143 charge the vendor a deposit, to be referred to as a "keg
144 deposit," in an amount not less than that charged to the
145 distributor by the manufacturer for each keg or container of the
146 beverage sold. The deposit amount charged to a vendor for a
147 draft keg or container of a like brand must be uniform. Charges
148 made for deposits collected or credits allowed for empty kegs or
149 containers returned must be shown separately on all sale tickets
150 or invoices. A copy of such sales tickets or invoices must be
151 given to the vendor at the time of delivery.

152 (2) In lieu of receiving a keg deposit, a distributor
153 selling alcoholic beverages by recyclable keg or other similar
154 reusable container for the purpose of sale in draft form to a
155 vendor identified in s. 561.01(18) or s. 565.02(6) or (7) shall



103886

156 implement an inventory and reconciliation process with such
157 vendor in which an accounting of kegs is completed and any loss
158 or variance in the number of kegs is paid for by the vendor on a
159 per-keg basis equivalent to the required keg deposit. This
160 inventory and reconciliation process may occur twice per year,
161 at the discretion of the distributor, but must occur at least
162 annually. Upon completion of an agreed upon keg inventory and
163 reconciliation, the vendor shall remit payment within 15 days
164 after receiving an invoice from the distributor. The vendor may
165 choose to establish and fund a separate account with the
166 distributor for the purpose of expediting timely payments.

167 Section 6. Section 561.422, Florida Statutes, is amended to
168 read

169 561.422 Nonprofit civic organizations, municipalities, and
170 counties; temporary permits.-

171 (1) Upon the filing of an application, presentation of a
172 local building and zoning permit, and payment of a fee of \$25
173 per permit, the director of the division may issue a permit
174 authorizing a ~~bona fide~~ nonprofit civic organization,
175 municipality, or county to sell alcoholic beverages for
176 consumption on the premises of an event only, for a period not
177 to exceed 3 days, subject to any state law or municipal or
178 county ordinance regulating the time for selling such beverages.
179 All net profits from sales of alcoholic beverages collected
180 during the permit period must be retained by the nonprofit civic
181 organization, municipality, or county. Any such nonprofit civic
182 organization, municipality, or county may be issued only three
183 such permits per calendar year. The sworn application filed by a
184 municipality or county for a temporary permit under this section



103886

185 must be signed by the chief executive officer of the
186 municipality or county.

187 (2) Notwithstanding other provisions of the Beverage Law,
188 any nonprofit civic organization, municipality, or county
189 licensed under this section may purchase alcoholic beverages
190 from a distributor or vendor licensed under the Beverage Law.

191 (3) All alcoholic beverages purchased for sale by a
192 municipality or county which remain unconsumed after an event
193 must be removed from the premises of the event and properly
194 disposed of by the municipality or county.

195 Section 7. Subsection (1) of section 562.14, Florida
196 Statutes, is amended to read:

197 562.14 Regulating the time for sale of alcoholic and
198 intoxicating beverages; prohibiting use of licensed premises.—

199 (1) Except as otherwise provided by county or municipal
200 ordinance, ~~no~~ alcoholic beverages may not be sold, consumed,
201 served, or permitted to be served or consumed in any place
202 holding a license under the division between the hours of
203 midnight and 7 a.m. of the following day. This section does
204 ~~shall~~ not apply to railroad transit stations or to railroads
205 selling only to passengers for consumption on railroad cars.

206 Section 8. Subsections (2) and (9) of section 565.02,
207 Florida Statutes, are amended to read:

208 565.02 License fees; vendors; clubs; caterers; and others.—

209 (2) (a) Any operator of railroad transit stations,
210 railroads, or sleeping cars in this state may obtain a license
211 to sell the beverages mentioned in the Beverage Law ~~on passenger~~
212 ~~trains~~ upon the payment of an annual license tax of \$2,500, ~~the~~
213 ~~tax to be paid~~ to the division. The ~~Such~~ license is good



103886

214 throughout the state and authorizes ~~shall authorize~~ the licensee
215 ~~holder thereof~~ to keep for sale and to sell all beverages
216 mentioned in the Beverage Law ~~on upon~~ any dining, club, parlor,
217 buffet, or observation car ~~or within the property of a railroad~~
218 ~~transit station~~ operated by the licensee. ~~it in this state, but~~
219 Such beverages may be sold only to passengers ~~on such upon the~~
220 ~~cars or within the property of the railroad transit station~~ and
221 must be served for consumption thereon. Licenses issued pursuant
222 to s. 565.02(2)(a) for railroad transit stations may not be
223 transferred to locations beyond the premises of the railroad
224 transit station. A municipality or county may not require an
225 additional license or levy a tax for the privilege of selling
226 such beverages.

227 (b) Except for alcoholic beverages sold within the property
228 of a railroad transit station, it is unlawful for such licensees
229 to purchase or sell any liquor except in miniature bottles of
230 not more than 2 ounces. ~~Every such license shall be good~~
231 ~~throughout the state. No license shall be required, or tax~~
232 ~~levied by any municipality or county, for the privilege of~~
233 ~~selling such beverages for consumption in such cars. Such~~
234 beverages ~~may shall~~ be sold only on cars in which are ~~posted~~
235 certified copies of the licenses issued to ~~the such~~ operator ~~are~~
236 ~~posted. Such~~ Certified copies of such licenses shall be issued
237 by the division upon the payment of a tax of \$10.

238 (c) A limitation of the number of licenses issued pursuant
239 to this section does not prohibit the issuance of a license
240 authorized by the Beverage Law or a special license issued
241 pursuant to s. 561.20 to operators of restaurants, shops, or
242 other facilities that are part of, or that serve, railroad



103886

243 transit stations, and any such licenses issued are exempt from
244 s. 562.45(2). The alcoholic beverages sold by a licensed
245 operator may be consumed in all areas within the property of the
246 railroad transit station as defined in s. 561.01(22).

247 (9)

248 (a) *DEFINITIONS.*— As used in this subsection, the term:

249 1. "Annual capacity" means an amount equal to the number of
250 lower berths on a vessel multiplied by the number of
251 embarkations of that vessel during a calendar year.

252 2. "Base rate" means an amount equal to the total taxes
253 paid by all permittees pursuant to this subsection for sales of
254 alcoholic beverages, cigarettes, and other tobacco products
255 taking place between January 1, 2015 and December 31, 2015,
256 inclusive, divided by the sum of the annual capacities of all
257 vessels permitted pursuant to this subsection for calendar year
258 2015.

259 3. "Embarkation" means an instance where a vessel departs
260 from a port in Florida.

261 4. "Lower berth" means a bed which is:

262 a. Affixed to a vessel;

263 b. Not located above another bed in the same cabin; and

264 c. Located in a cabin not in use by employees of the
265 operator of the vessel or its contractors.

266 5. "Quarterly capacity" means an amount equal to the number
267 of lower berths on a vessel multiplied by the number of
268 embarkations of that vessel during a calendar quarter.

269 (b) It is the finding of the Legislature that passenger
270 vessels engaged exclusively in foreign commerce are susceptible
271 to a distinct and separate classification for purposes of the



103886

272 sale of alcoholic beverages, cigarettes, and other tobacco
273 products under the Beverage Law and chapter 210.

274 (c) Upon the filing of an application and payment of an
275 annual fee of \$1,100, the director is authorized to issue a
276 permit authorizing the operator, or, if applicable, his or her
277 concessionaire, of a passenger vessel which has cabin-berth
278 capacity for at least 75 passengers, and which is engaged
279 exclusively in foreign commerce, to sell alcoholic beverages,
280 cigarettes, and other tobacco products on the vessel for
281 consumption on board only:

282 1.(a) During a period not in excess of 24 hours prior to
283 departure while the vessel is moored at a dock or wharf in a
284 port of this state; or

285 2.(b) At any time while the vessel is located in Florida
286 territorial waters and is in transit to or from international
287 waters.

288 One such permit shall be required for each such vessel and
289 shall name the vessel for which it is issued. No license shall
290 be required or tax levied by any municipality or county for the
291 privilege of selling beverages, cigarettes, or other tobacco
292 products for consumption on board such vessels. The beverages,
293 cigars, or other tobacco products so sold may be purchased
294 outside the state by the permittee, and the same shall not be
295 considered as imported for the purposes of s. 561.14(3) solely
296 because of such sale. The permittee is not required to obtain
297 its beverages, cigarettes, or other tobacco products from
298 licensees under the Beverage law or chapter 210. ~~but it~~ Each
299 permittee shall keep a strict account of the quarterly capacity
300 of each of its vessels ~~all such beverages sold within this state~~



103886

301 and shall make quarterly ~~monthly~~ reports to the division on
302 forms prepared and furnished by the division. ~~A permittee who~~
303 ~~sells on board the vessel beverages withdrawn from United States~~
304 ~~Bureau of Customs and Border Protection bonded storage on board~~
305 ~~the vessel may satisfy such accounting requirement by supplying~~
306 ~~the division with copies of the appropriate United States Bureau~~
307 ~~of Customs and Border Protection forms evidencing such~~
308 ~~withdrawals as importations under United States customs laws.~~

309 (d) Each Such permittee shall pay to the state an excise
310 tax for beverages, cigarettes, and other tobacco products sold
311 pursuant to this subsection ~~section~~, if such excise tax has not
312 previously been paid, ~~in an amount equal to the tax which would~~
313 ~~be required to be paid on such sales by a licensed manufacturer~~
314 ~~or distributor.~~ The excise tax shall be an amount equal to the
315 base rate multiplied by the permittee's quarterly capacity
316 during the calendar quarter.

317 (e) A vendor holding such permit shall pay the tax
318 quarterly ~~monthly~~ to the division at the same time he or she
319 furnishes the required report. Such report shall be filed on or
320 before the 15th day of each quarter ~~month~~ for the quarterly
321 capacity capacity sales occurring during the previous calendar
322 quarter ~~month~~.

323 (f) No later than August 1, 2016, each permittee shall
324 report the annual capacity for each of its vessels for calendar
325 year 2015 to the division on forms prepared and furnished by the
326 division. No later than September 1, 2016, the division shall
327 calculate the base rate and report it to each permittee. The
328 base rate shall also be published in the Florida Administrative
329 Register and on the department's website.



103886

330 Section 9. This act shall take effect July 1, 2016.

331

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

333 And the title is amended as follows:

334 Delete everything before the enacting clause
335 and insert:

336 A bill to be entitled
337 An act relating to alcoholic beverages and tobacco;
338 amending s. 210.13, F.S.; revising applicability to
339 include other persons who may be subject to a
340 determination of tax on failure to file and return,
341 which may result in certain penalties, costs, and
342 charges; amending s. 218.32, F.S.; requiring local
343 governmental entities to include revenues derived from
344 the use of temporary alcoholic beverage permits in
345 annual financial reports; amending s. 561.01, F.S.;
346 defining the term "railroad transit station"; amending
347 s. 561.29, F.S.; requiring, rather than authorizing,
348 the Division of Alcoholic Beverages and Tobacco to
349 give a licensee a written waiver of certain
350 requirements; revising the requirements to obtain such
351 waivers; extending a certain waiver period, not to
352 exceed 24 months; deleting a provision prohibiting
353 waivers from totaling more than 24 months; creating s.
354 561.4205, F.S., requiring an alcoholic beverage
355 distributor to charge a deposit for certain alcoholic
356 beverage sales; providing an inventory and
357 reconciliation process as an accounting alternative
358 for specified vendors; providing an inventory and



103886

359 reconciliation process for malt beverage kegs;
360 amending s. 561.422, F.S.; authorizing the Division of
361 Alcoholic Beverages and Tobacco within the Department
362 of Business and Professional Regulation to issue
363 temporary permits to municipalities and counties to
364 sell alcoholic beverages for consumption on the
365 premises of an event; providing conditions for such
366 permits; requiring such municipalities and counties to
367 remove and properly dispose of unconsumed alcoholic
368 beverages; amending s. 562.14, F.S.; exempting
369 railroad transit stations from provisions regulating
370 the time during which alcoholic beverages may be sold,
371 served, and consumed; amending s. 565.02, F.S.;
372 authorizing operators of railroad transit stations to
373 obtain licenses to sell alcoholic beverages; revising
374 the locations where certain beverages may be sold;
375 prohibiting the transfer of specified licenses to
376 certain locations; prohibiting a municipality or
377 county from requiring an additional license or levying
378 a tax to sell certain beverages; exempting railroad
379 transit stations from liquor bottle size restrictions;
380 exempting operators of restaurants, shops, or other
381 facilities that are part of, or that serve, railroad
382 transit stations from certain licensing regulations;
383 authorizing alcoholic beverages to be served in all
384 areas within the property of a railroad transit
385 station; providing an effective date.