

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1439 Charlotte County
SPONSOR(S): Grant
TIED BILLS: **IDEN./SIM. BILLS:** SB 472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N	Banner	Miller
2) Careers & Competition Subcommittee	14 Y, 0 N	Willson	Anstead
3) Government Accountability Committee			

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 general 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. A license may also be issued to any caterer that derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages. Additionally, an exception is also provided for performing arts centers, as defined in s. 561.01(17), F.S.

The bill provides a local exception for Charlotte County, to allow an event center with a seating capacity of no more than 800 seats and an overall floor capacity of no more than 10,000 square feet to include annual gross revenue from the sale of event tickets in the gross revenue calculation required for a license. The bills defines event center as a facility that does not primarily market itself as a food service establishment but routinely hosts a variety of events where a ticket is purchased for entry.

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 the 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

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco (Division) 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 meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage 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 alcoholic 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

There is also an exception for caterers deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.⁷ Catering services operating pursuant to this section law may sell or serve alcoholic beverages only for consumption on the premises of the catered event. This provision does not apply to culinary education programs that also provide catering services.

Finally, exceptions are also provided for performing arts centers, provided that consumption of alcoholic beverages occurs in conjunction with an artistic, educational, cultural, promotional, civic or charitable event occurring on the premises of the venue.⁸ Section 561.01(17), F.S., defines a performing arts

¹ Section 561.20(1), F.S.

² Section 565.02, F.S.

³ Section 561.20(2)(a)4., F.S. Current law requires the gross food and beverage revenue to be based on the first 60-day operating period and each 12-month operating period thereafter.

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 Section 561.20(2)(a)5., F.S.

⁸ Section 561.20(2)(j), F.S.

center as "...owned and operated by a not-for-profit corporation qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986".

Current law does not provide any exceptions for smaller event center venues that are not classified as performing arts centers or fail to generate at least 51 percent of their gross revenue from food and non-alcoholic beverages. One such venue, the Englewood Event Center, located in Charlotte County, is a banquet, concert and event venue available for rentals and in-house events. The venue can accommodate 750 for concert-style seating and 400 for sit down dinner functions.⁹

Effect of Proposed Changes

The bill authorizes the Department of Business and Professional Regulation (DBPR) to issue special alcoholic beverage licenses to event centers in Charlotte County which have a seating capacity of no more than 800 seats, an overall floor capacity of no more than 10,000 square feet, and derive no less than 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages.

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.

B. SECTION DIRECTORY:

Section 1: Authorizes DBPR to issue special alcoholic beverage licenses to event centers in Charlotte County meeting specified seating and space requirements.

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? January 24, 2017

WHERE? *Charlotte Sun and Englewood Sun*, newspapers published in Charlotte 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:

⁹ Englewood Event Center, About, <http://www.Englewoodeventcenter.info/about.html> (accessed March 13,2017).

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.