

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative La Rosa offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (1) of section 561.42, Florida
6 Statutes, is amended to read:

7 561.42 Tied house evil; financial aid and assistance to
8 vendor by manufacturer, distributor, importer, primary American
9 source of supply, brand owner or registrant, or any broker,
10 sales agent, or sales person thereof, prohibited; procedure for
11 enforcement; exception.-

12 (1) No manufacturer, distributor, importer, primary
13 American source of supply, or brand owner or registrant of any

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14 of the beverages herein referred to, whether licensed or
15 operating in this state or out-of-state, nor any broker, sales
16 agent, or sales person thereof, shall have any financial
17 interest, directly or indirectly, in the establishment or
18 business of any vendor licensed under the Beverage Law; nor
19 shall such manufacturer, distributor, importer, primary American
20 source of supply, brand owner or brand registrant, or any
21 broker, sales agent, or sales person thereof, assist any vendor
22 by any gifts or loans of money or property of any description or
23 by the giving of any rebates of any kind whatsoever. No licensed
24 vendor shall accept, directly or indirectly, any gift or loan of
25 money or property of any description or any rebates from any
26 such manufacturer, distributor, importer, primary American
27 source of supply, brand owner or brand registrant, or any
28 broker, sales agent, or sales person thereof; provided, however,
29 that this does not apply to any bottles, barrels, or other
30 containers necessary for the legitimate transportation of such
31 beverages or to advertising materials and does not apply to the
32 extension of credit, for liquors sold, made strictly in
33 compliance with the provisions of this section. A brand owner is
34 a person who is not a manufacturer, distributor, importer,
35 primary American source of supply, brand registrant, or broker,
36 sales agent, or sales person thereof, but who directly or
37 indirectly owns or controls any brand, brand name, or label of
38 alcoholic beverage. Nothing in this section shall prohibit the

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39 ownership by vendors of any brand, brand name, or label of
40 alcoholic beverage.

41 (a) A manufacturer or importer of malt beverages and a
42 vendor may enter into a written agreement for brand naming
43 rights, including the right to advertise cooperatively,
44 negotiated at arm's length for no more than fair market value
45 if:

46 1. The vendor operates places of business where
47 consumption on the premises is permitted, which premises are
48 located within a theme park complex comprised of at least 25
49 contiguous acres owned and controlled by the same business
50 entity and which contains permanent exhibitions and a variety of
51 recreational activities and has a minimum of 1 million visitors
52 annually through a controlled entrance to and exit from the
53 theme park complex.

54 2. Such brand naming rights agreement does not involve,
55 either in whole or in part, the sale or distribution of malt
56 beverages between the manufacturer or importer, or its
57 distributor, and a vendor.

58 3. The vendor does not give preferential treatment to, and
59 the manufacturer or importer does not solicit or otherwise
60 attempt to obtain preferential treatment from, the alcoholic
61 beverage brand or brands of the manufacturer or importer with
62 whom the vendor has entered into a naming rights agreement.

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63 4. Such brand naming rights agreement does not limit,
64 either directly or indirectly, the sale of alcoholic beverages
65 of another manufacturer, importer, or distributor.

66 5. A distributor does not, directly or indirectly, provide
67 any portion of the payment of the brand naming rights agreement.

68 6. Within 10 days of the execution of a written agreement
69 for brand naming rights, the vendor files with the division a
70 description of the agreement which includes the location, dates,
71 and the name of the manufacturer or importer that entered into
72 the agreement.

73 (b)1. Any person, vendor, manufacturer, or importer who,
74 through coercion or other illegal means, induces, directly or
75 indirectly, a distributor to provide any portion of the payment
76 of the brand naming rights agreement shall be guilty of a
77 misdemeanor of the of the second degree, punishable as provided
78 in s. 775.082 or s. 775.083; and shall be punished by
79 imprisonment in the county jail for a period not to exceed 6
80 months, or by a fine in an amount equal to the total value of
81 the naming rights agreement plus \$10,000, or by both
82 imprisonment and fine.

83 2. For each violation of paragraph (a), a vendor,
84 manufacturer, distributor, or importer shall be subject to
85 license suspension for 7 days, a fine in an amount not less than
86 the value of the brand naming rights agreement and, if
87 applicable, suspension of its brand registration within the

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88 state for 30 days for the brand that is the subject of the brand
89 naming rights agreement.

90 Section 2. Effective October 1, 2017, paragraph (a) of
91 subsection (14) of section 561.42, Florida Statutes, is amended
92 to read:

93 561.42 Tied house evil; financial aid and assistance to
94 vendor by manufacturer, distributor, importer, primary American
95 source of supply, brand owner or registrant, or any broker,
96 sales agent, or sales person thereof, prohibited; procedure for
97 enforcement; exception.—

98 (14) The division shall adopt reasonable rules governing
99 promotional displays and advertising, which rules shall not
100 conflict with or be more stringent than the federal regulations
101 pertaining to such promotional displays and advertising
102 furnished to vendors by distributors, manufacturers, importers,
103 primary American sources of supply, or brand owners or
104 registrants, or any sales agent or sales person thereof;
105 however:

106 (a) If a manufacturer, distributor, importer, brand owner,
107 or brand registrant of malt beverage, or any sales agent or
108 sales person thereof, provides a vendor licensed to sell malt
109 beverages for on-premises consumption with branded expendable
110 retailer advertising specialties such as trays, coasters, mats,
111 menu cards, napkins, cups, glassware ~~glasses~~, thermometers, and
112 the like, such items may be sold only at a price not less than

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113 | the actual cost to the industry member who initially purchased
 114 | them, without limitation in total dollar value of such items
 115 | sold to a vendor. However, a distributor that has received
 116 | glassware at no charge from a malt beverage manufacturer or
 117 | importer may give such glassware to a vendor licensed to sell malt
 118 | beverages for on-premises consumption. Each piece of glassware
 119 | given to a vendor by a distributor must bear a permanent brand
 120 | name intended to prominently advertise the brand. A distributor
 121 | may not give to a vendor more than 10 cases of glassware per
 122 | calendar year per licensed premises. As used in this paragraph,
 123 | the term "case" means a box containing up to 24 pieces of
 124 | glassware. As used in this paragraph, the term "glassware" means a
 125 | single-service glass container which can hold no more than 23
 126 | ounces of liquid volume. A vendor that receives a gift of such
 127 | glassware from a distributor may not sell the glassware or return
 128 | it to a distributor for cash, credit, or replacement.

129 | Section 3. Except as otherwise expressly provided in this
 130 | act, this act shall take effect July 1, 2017.

131 |
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133 | **T I T L E A M E N D M E N T**

134 | Remove everything before the enacting clause and insert:

135 | A bill to be entitled

136 | An act relating to the Beverage Law; amending s.

137 | 561.42, F.S.; providing an exemption from provisions

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138 relating to the tied house evil for specified
139 financial transactions between a manufacturer or
140 importer of malt beverages and a licensed vendor;
141 providing conditions for the exception; providing
142 penalties; authorizing a distributor of malt beverages
143 to give branded glassware to vendors licensed to sell
144 malt beverages for on-premises consumption; providing
145 that such glassware bear certain branding; providing
146 an annual limit on the amount of glassware that may be
147 given by a distributor to a vendor; prohibiting a
148 vendor from selling the branded glassware or returning
149 the branded glassware to a distributor; providing
150 effective dates.

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