

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Regulated Industries

[2017s00388.hms]

BILL: CS/CS/SB 388

INTRODUCER: Rules Committee; Regulated Industries Committee; and Senator Hutson

SUBJECT: Beverage Law

DATE: May 1, 2017

I. Amendments Contained in Message:

House Amendment 1 – 360349 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 expands the “tied house evil” exemption in the bill for certain theme park vendors to include agreements between a vendor and an importer. It requires that the arm’s length transaction must be a written agreement for naming rights, which includes the right to advertise cooperatively. The brand naming agreement may not involve in whole or in part, the sale or distribution of malt beverages between the manufacturer or importer, or its distributor, and a vendor.

The amendment removes the prohibition against the agreement limiting, either directly or indirectly, the sale of alcoholic beverages from another manufacturer during or in connection with any sponsored event. Instead, the amendment prohibits the vendor from giving preferential treatment, and the manufacturer or importer soliciting preferential treatment, to the manufacturer or importer’s brands. The amendment prohibits the distributor from, directly or indirectly, providing any portion of the payment of the brand naming rights agreement.

The amendment removes the limitation of 25 arm’s length financial transactions in effect during a calendar year with respect to each theme park.

The amendment requires that, within 10 days of the execution of the written agreement, the vendor file with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation a description of the agreement, which includes the location, dates, and the name of the manufacturer or importer that entered into the agreement.

The amendment provides a second degree misdemeanor penalty (which carries a term of imprisonment not to exceed 60 days and a fine not to exceed \$500) for coercing or using other illegal means, to induce, directly or indirectly, a distributor to provide any portion of the payment of the brand naming rights agreement. However, the amendment provides that a violation of this prohibition is punishable by imprisonment in the county jail for a period not to exceed 6 months, or by a fine in an amount equal to the total value of the naming rights agreement plus \$10,000, or by both imprisonment and fine. Each violation of this prohibition may also result a license

suspension of seven days, a fine of not less than the value of the brand naming rights agreement, and suspension of a brand registration for 30 days for the brand that is the subject of the brand naming rights agreement.

The Amendment creates an exception to the alcoholic beverage tied-house evil law to permit a malt beverage distributor that has received glassware at no charge from a malt beverage manufacturer to give or sell such glassware to a vendor licensed to sell malt beverages for on-premises consumption. The bill prohibits the distributor from giving more than 10 cases that include up to 24 pieces per case of single-service glassware per brand, per licensed premises, per calendar year. The single service glassware can hold no more than 23 ounces of liquid volume. The amendment prohibits the vendor from selling the glassware or returning it to the distributor for cash or credit. The effective date for this tied-house exception for glassware is October 1, 2017.