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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to alcoholic beverages; amending s. 561.11, F.S.; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to appoint division personnel; requiring specified personnel to have Selected Exempt Service status; amending s. 561.17, F.S.; revising the entities that may issue a certificate indicating an alcoholic beverage license applicant's place of business meets all of the sanitary requirements of the state; amending s. 561.20, F.S.; revising who may be issued a special license in counties otherwise subject to limits on the number of licenses issued; revising the requirements for retaining certain business records; amending s. 561.331, F.S.; requiring certain temporary beverage licenses to be issued by the district supervisor of a district without assessing additional fees or taxes; amending s. 564.01, F.S.; redefining the term "wine"; repealing s. 564.05, F.S., relating to limitations on the size of individual wine containers; amending s. 564.055, F.S.; authorizing the packaging, filling, refilling, or sale, of cider in growlers; amending s. 564.09, F.S.; revising provisions authorizing a restaurant to allow a patron to remove a resealed wine container from a restaurant for off-premises consumption; amending s. 565.03, F.S.; specifying the



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28 state license tax for craft distilleries; providing an
29 effective date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Subsection (2) of section 561.11, Florida
34 Statutes, is amended to read:

35 561.11 Power and authority of division.—

36 (2) The division shall have full power and authority to
37 provide for the continuous training, appointment, and upgrading
38 of all division personnel in their respective positions with the
39 division. Notwithstanding any other law, chiefs, assistant
40 chiefs, regional managers, including majors, and district or
41 office managers, including captains, shall have Selected Exempt
42 Service status in the state personnel designation. The ~~This~~
43 training shall include the attendance of division personnel at
44 workshops, seminars, or special schools established by the
45 division or other organizations when attendance at such
46 educational programs shall in the opinion of the division be
47 deemed appropriate to the particular position that ~~which~~ the
48 employee holds.

49 Section 2. Subsection (2) of section 561.17, Florida
50 Statutes, is amended to read:

51 561.17 License and registration applications; approved
52 person.—

53 (2) All applications for alcoholic beverage licenses for
54 consumption on the premises shall be accompanied by a
55 certificate of the Division of Hotels and Restaurants of the
56 Department of Business and Professional Regulation or the



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57 Department of Agriculture and Consumer Services or the
58 Department of Health or the Agency for Health Care
59 Administration or the county health department that the place of
60 business wherein the business is to be conducted meets all of
61 the sanitary requirements of the state.

62 Section 3. Paragraph (a) of subsection (2) of section
63 561.20, Florida Statutes, is amended to read:

64 561.20 Limitation upon number of licenses issued.—

65 (2)(a) The limitation of the number of licenses as provided
66 in this section does not prohibit the issuance of a special
67 license to:

68 1. Any bona fide hotel, motel, or motor court of not fewer
69 than 80 guest rooms in any county having a population of less
70 than 50,000 residents, and of not fewer than 100 guest rooms in
71 any county having a population of 50,000 residents or greater;
72 or any bona fide hotel or motel located in a historic structure,
73 as defined in s. 561.01(21), with fewer than 100 guest rooms
74 which derives at least 51 percent of its gross revenue from the
75 rental of hotel or motel rooms, which is licensed as a public
76 lodging establishment by the Division of Hotels and Restaurants;
77 provided, however, that a bona fide hotel or motel with no fewer
78 than 10 and no more than 25 guest rooms which is a historic
79 structure, as defined in s. 561.01(21), in a municipality that
80 on the effective date of this act has a population, according to
81 the University of Florida's Bureau of Economic and Business
82 Research Estimates of Population for 1998, of no fewer than
83 25,000 and no more than 35,000 residents and that is within a
84 constitutionally chartered county may be issued a special
85 license. This special license shall allow the sale and



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86 consumption of alcoholic beverages only on the licensed premises
87 of the hotel or motel. In addition, the hotel or motel must
88 derive at least 60 percent of its gross revenue from the rental
89 of hotel or motel rooms and the sale of food and nonalcoholic
90 beverages; provided that ~~the provisions of~~ this subparagraph
91 shall supersede local laws requiring a greater number of hotel
92 rooms;

93 2. Any condominium accommodation of which no fewer than 100
94 condominium units are wholly rentable to transients and which is
95 licensed under ~~the provisions of~~ chapter 509, except that the
96 license shall be issued only to the person or corporation which
97 operates the hotel or motel operation and not to the association
98 of condominium owners;

99 3. Any condominium accommodation of which no fewer than 50
100 condominium units are wholly rentable to transients, which is
101 licensed under ~~the provisions of~~ chapter 509, and which is
102 located in any county having home rule under s. 10 or s. 11,
103 Art. VIII of the State Constitution of 1885, as amended, and
104 incorporated by reference in s. 6(e), Art. VIII of the State
105 Constitution, except that the license shall be issued only to
106 the person or corporation that ~~which~~ operates the hotel or motel
107 operation and not to the association of condominium owners;

108 4. A food service establishment that has 2,500 square feet
109 of service area, is equipped to serve meals to 150 persons at
110 one time, and derives at least 51 percent of its gross food and
111 beverage revenue from the sale of food and nonalcoholic
112 beverages during the first 60-day operating period and each 12-
113 month operating period thereafter. A food service establishment
114 granted a special license on or after January 1, 1958, pursuant



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115 to general or special law may not operate as a package store and
116 may not sell intoxicating beverages under such license after the
117 hours of serving or consumption of food have elapsed. Failure by
118 a licensee to meet the required percentage of food and
119 nonalcoholic beverage gross revenues during the covered
120 operating period shall result in revocation of the license or
121 denial of the pending license application. A licensee whose
122 license is revoked or an applicant whose pending application is
123 denied, or any person required to qualify on the special license
124 application, is ineligible to have any interest in a subsequent
125 application for such a license for a period of 120 days after
126 the date of the final denial or revocation;

127 5. Any caterer, deriving at least 51 percent of its gross
128 food and beverage revenue from the sale of food and nonalcoholic
129 beverages, licensed by the Division of Hotels and Restaurants
130 under chapter 509. This subparagraph does not apply to a
131 culinary education program, as defined in s. 381.0072(2), which
132 is licensed as a public food service establishment by the
133 Division of Hotels and Restaurants and provides catering
134 services. Notwithstanding any other ~~provision of~~ law to the
135 contrary, a licensee under this subparagraph shall sell or serve
136 alcoholic beverages only for consumption on the premises of a
137 catered event at which the licensee is also providing prepared
138 food, and shall prominently display its license at any catered
139 event at which the caterer is selling or serving alcoholic
140 beverages. The caterer must ensure that each catered event meets
141 the 51 percent food and nonalcoholic beverage requirement. A
142 licensee under this subparagraph shall purchase all alcoholic
143 beverages it sells or serves at a catered event from a vendor



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144 licensed under s. 563.02(1), s. 564.02(1), or licensed under s.
145 565.02(1) subject to the limitation imposed in subsection (1),
146 as appropriate. A licensee under this subparagraph may not store
147 any alcoholic beverages to be sold or served at a catered event.
148 Any alcoholic beverages purchased by a licensee under this
149 subparagraph for a catered event that are not used at that event
150 must remain with the customer; provided that if the vendor
151 accepts unopened alcoholic beverages, the licensee may return
152 such alcoholic beverages to the vendor for a credit or
153 reimbursement. Regardless of the county or counties in which the
154 licensee operates, a licensee under this subparagraph shall pay
155 the annual state license tax set forth in s. 565.02(1)(b). A
156 licensee under this subparagraph must maintain for a period of 3
157 years all records and receipts for each catered event, including
158 all contracts, customers' names, locations, dates, food
159 purchases and sales, alcoholic beverage purchases and sales,
160 nonalcoholic beverage purchases and sales, and any other records
161 required by the department by rule to demonstrate compliance
162 with the requirements of this subparagraph, including licensed
163 vendor receipts for the purchase of alcoholic beverages and
164 records identifying each customer and the location and date of
165 each catered event. Notwithstanding any ~~provision of law to the~~
166 ~~contrary,~~ any vendor licensed under s. 565.02(1) subject to the
167 limitation imposed in subsection (1), may, without any
168 additional licensure under this subparagraph, serve or sell
169 alcoholic beverages for consumption on the premises of a catered
170 event at which prepared food is provided by a caterer licensed
171 under chapter 509. If a licensee under this subparagraph also
172 possesses any other license under the Beverage Law, the license



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173 issued under this subparagraph shall not authorize the holder to
174 conduct activities on the premises to which the other license or
175 licenses apply that would otherwise be prohibited by the terms
176 of that license or the Beverage Law. Nothing in this section
177 shall permit the licensee to conduct activities that are
178 otherwise prohibited by the Beverage Law or local law. The
179 Division of Alcoholic Beverages and Tobacco is hereby authorized
180 to adopt rules to administer the license created in this
181 subparagraph, to include rules governing licensure,
182 recordkeeping, and enforcement. The first \$300,000 in fees
183 collected by the division each fiscal year pursuant to this
184 subparagraph shall be deposited in the Department of Children
185 and Families' Operations and Maintenance Trust Fund to be used
186 only for alcohol and drug abuse education, treatment, and
187 prevention programs. The remainder of the fees collected shall
188 be deposited into the Hotel and Restaurant Trust Fund created
189 pursuant to s. 509.072; or

190 6. A culinary education program as defined in s.
191 381.0072(2) which is licensed as a public food service
192 establishment by the Division of Hotels and Restaurants.

193 a. This special license shall allow the sale and
194 consumption of alcoholic beverages on the licensed premises of
195 the culinary education program. The culinary education program
196 shall specify designated areas in the facility where the
197 alcoholic beverages may be consumed at the time of application.
198 Alcoholic beverages sold for consumption on the premises may be
199 consumed only in areas designated pursuant to s. 561.01(11) and
200 may not be removed from the designated area. Such license shall
201 be applicable only in and for designated areas used by the



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202 culinary education program.

203 b. If the culinary education program provides catering
204 services, this special license shall also allow the sale and
205 consumption of alcoholic beverages on the premises of a catered
206 event at which the licensee is also providing prepared food. A
207 culinary education program that provides catering services is
208 not required to derive at least 51 percent of its gross revenue
209 from the sale of food and nonalcoholic beverages.

210 Notwithstanding any other provision of law to the contrary, a
211 licensee that provides catering services under this sub-
212 subparagraph shall prominently display its beverage license at
213 any catered event at which the caterer is selling or serving
214 alcoholic beverages. Regardless of the county or counties in
215 which the licensee operates, a licensee under this sub-
216 subparagraph shall pay the annual state license tax set forth in
217 s. 565.02(1)(b). A licensee under this sub-subparagraph must
218 maintain for a period of 3 years all records required by the
219 department by rule to demonstrate compliance with the
220 requirements of this sub-subparagraph.

221 c. If a licensee under this subparagraph also possesses any
222 other license under the Beverage Law, the license issued under
223 this subparagraph does not authorize the holder to conduct
224 activities on the premises to which the other license or
225 licenses apply that would otherwise be prohibited by the terms
226 of that license or the Beverage Law. Nothing in this
227 subparagraph shall permit the licensee to conduct activities
228 that are otherwise prohibited by the Beverage Law or local law.
229 Any culinary education program that holds a license to sell
230 alcoholic beverages shall comply with the age requirements set



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231 forth in ss. 562.11(4), 562.111(2), and 562.13.

232 d. The Division of Alcoholic Beverages and Tobacco may
233 adopt rules to administer the license created in this
234 subparagraph, to include rules governing licensure,
235 recordkeeping, and enforcement.

236 e. A license issued pursuant to this subparagraph does not
237 permit the licensee to sell alcoholic beverages by the package
238 for off-premises consumption.

239

240 However, any license heretofore issued to any such hotel, motel,
241 motor court, or restaurant or hereafter issued to any such
242 hotel, motel, or motor court, including a condominium
243 accommodation, under the general law shall not be moved to a new
244 location, such license being valid only on the premises of such
245 hotel, motel, motor court, or restaurant. Licenses issued to
246 hotels, motels, motor courts, or restaurants under the general
247 law and held by such hotels, motels, motor courts, or
248 restaurants on May 24, 1947, shall be counted in the quota
249 limitation contained in subsection (1). Any license issued for
250 any hotel, motel, or motor court under ~~the provisions of this~~
251 law shall be issued only to the owner of the hotel, motel, or
252 motor court or, in the event the hotel, motel, or motor court is
253 leased, to the lessee of the hotel, motel, or motor court; and
254 the license shall remain in the name of the owner or lessee so
255 long as the license is in existence. Any special license now in
256 existence heretofore issued under ~~the provisions of this law~~
257 cannot be renewed except in the name of the owner of the hotel,
258 motel, motor court, or restaurant or, in the event the hotel,
259 motel, motor court, or restaurant is leased, in the name of the



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260 lessee of the hotel, motel, motor court, or restaurant in which
261 the license is located and must remain in the name of the owner
262 or lessee so long as the license is in existence. Any license
263 issued under this section shall be marked "Special," and nothing
264 herein provided shall limit, restrict, or prevent the issuance
265 of a special license for any restaurant or motel which shall
266 hereafter meet the requirements of the law existing immediately
267 prior to the effective date of this act, if construction of such
268 restaurant has commenced prior to the effective date of this act
269 and is completed within 30 days thereafter, or if an application
270 is on file for such special license at the time this act takes
271 effect; and any such licenses issued under this proviso may be
272 annually renewed as now provided by law. Nothing herein prevents
273 an application for transfer of a license to a bona fide
274 purchaser of any hotel, motel, motor court, or restaurant by the
275 purchaser of such facility or the transfer of such license
276 pursuant to law.

277 Section 4. Subsections (1) and (3) of section 561.331,
278 Florida Statutes, are amended to read:

279 561.331 Temporary license upon application for transfer,
280 change of location, or change of type or series.—

281 (1) Upon the filing of a properly completed application for
282 transfer pursuant to s. 561.32, which application does not on
283 its face disclose any reason for denying an alcoholic beverage
284 license, by any purchaser of a business that ~~which~~ possesses a
285 beverage license of any type or series, the purchaser of such
286 business and the applicant for transfer are entitled as a matter
287 of right to receive a temporary beverage license of the same
288 type and series as that held by the seller of such business. The



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289 temporary license will be valid for all purposes under the
290 Beverage Law until the application is denied or until 14 days
291 after the application is approved. Such temporary beverage
292 license shall be issued by the district supervisor of the
293 district in which the application for transfer is made without
294 the assessment of any additional fee or tax ~~upon the payment of~~
295 ~~a fee of \$100~~. A purchaser operating under ~~the provisions of~~
296 this subsection is subject to the same rights, privileges,
297 duties, and limitations of a beverage licensee as are provided
298 by law, except that purchases of alcoholic beverages during the
299 term of such temporary license shall be for cash only. However,
300 such cash-only restriction does not apply if the entity holding
301 a temporary license pursuant to this section purchases alcoholic
302 beverages as part of a single-transaction cooperative purchase
303 placed by a pool buying agent or if such entity is also the
304 holder of a state beverage license authorizing the purchase of
305 the same type of alcoholic beverages as authorized under the
306 temporary license.

307 (3) Upon the filing of a properly completed application to
308 change the type or series of a beverage license by any qualified
309 licensee having a beverage license of any type or series, which
310 application does not on its face disclose any reason for denying
311 an alcoholic beverage license, the licensee is entitled as a
312 matter of right to receive a temporary beverage license of the
313 type or series applied for, which temporary license is valid for
314 all purposes under the Beverage Law until the application is
315 denied or until 14 days after the application is approved. Such
316 temporary license shall be issued by the district supervisor of
317 the district in which the application for change of type or



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318 series is made without the assessment of any additional fee or
319 tax. If the department issues a notice of intent to deny the
320 license application for failure of the applicant to disclose the
321 information required by s. 561.15(2) or (4), the temporary
322 license for transfer, change of location, or change of type of
323 series expires and shall not be extended during any proceeding
324 for administrative or judicial review pursuant to chapter 120.
325 ~~If the fee for the type or series or license applied for is~~
326 ~~greater than the fee for the license then held by the applicant,~~
327 ~~the applicant for such temporary license must pay a fee in the~~
328 ~~amount of \$100 or one-fourth of the difference between the fees,~~
329 ~~whichever amount is greater. A fee is not required for an~~
330 ~~application for a temporary license of a type or series for~~
331 ~~which the fee is the same as or less than the fee for the~~
332 ~~license then held by the applicant.~~ The holder of a temporary
333 license under this subsection is subject to the same rights,
334 privileges, duties, and limitations of a beverage licensee as
335 are provided by law.

336 Section 5. Subsection (1) of section 564.01, Florida
337 Statutes, is amended to read:

338 564.01 Definitions.—

339 (1) "Wine" means all beverages made from fresh fruits,
340 berries, or grapes, either by natural fermentation or by natural
341 fermentation with brandy added, in the manner required by the
342 laws and regulations of the United States, and includes all
343 sparkling wines, champagnes, combination of the aforesaid
344 beverages, sake, vermouths, and like products. Sugar, flavors,
345 and coloring materials may be added to wine to make it conform
346 to the consumer's taste, except that the ultimate flavor or the



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347 color of the product may not be altered to imitate a beverage
348 other than wine or to change the character of the wine.

349 Section 6. Section 564.05, Florida Statutes, is repealed.

350 Section 7. Section 564.055, Florida Statutes, is amended to
351 read

352 564.055 Cider containers.—Notwithstanding any other law to
353 the contrary, cider, as defined in s. 564.06(4), may be sold by
354 vendors at retail in any size individual container containing no
355 more than 32 ounces of cider; however, this section does not
356 prohibit cider from being packaged and sold in bulk, in kegs or
357 barrels, or in any individual container that contains 1 gallon
358 or more of cider, regardless of container type. In addition,
359 cider may be packaged, filled, refilled, or sold in 32 ounce, 64
360 ounce, and 1 gallon growlers in the same manner and under the
361 same restrictions as authorized for malt beverages pursuant to
362 s. 563.06(7).

363 Section 8. Section 564.09, Florida Statutes, is amended to
364 read:

365 564.09 Restaurants; off-premises consumption of wine.—
366 Notwithstanding any other provision of law, a restaurant
367 licensed to sell wine on the premises may permit a patron to
368 remove one unsealed bottle of wine for consumption off the
369 premises if the patron has purchased a ~~full-course~~ meal
370 ~~consisting of a salad or vegetable, entree, a beverage, and~~
371 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
372 ~~meal~~ on the restaurant premises. A partially consumed bottle of
373 wine that is to be removed from the premises must be securely
374 resealed by the licensee or its employees before removal from
375 the premises. The partially consumed bottle of wine shall be



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376 placed in a bag or other container that is secured in such a
377 manner that it is visibly apparent if the container has been
378 subsequently opened or tampered with, and a dated receipt for
379 the bottle of wine and ~~full-course~~ meal shall be provided by the
380 licensee and attached to the container. If transported in a
381 motor vehicle, the container with the resealed bottle of wine
382 must be placed in a locked glove compartment, a locked trunk, or
383 the area behind the last upright seat of a motor vehicle that is
384 not equipped with a trunk.

385 Section 9. Paragraph (a) of subsection (2) of section
386 565.03, Florida Statutes, is amended to read:

387 565.03 License fees; manufacturers, distributors, brokers,
388 sales agents, and importers of alcoholic beverages; vendor
389 licenses and fees; craft distilleries.-

390 (2) (a) A distillery authorized to do business under the
391 Beverage Law shall pay an annual state license tax for each
392 plant or branch operating in the state, as follows:

393 1. If engaged in the business of manufacturing distilled
394 spirits, not including craft distilleries, a state license tax
395 of \$4,000.

396 2. If engaged in the business of manufacturing distilled
397 spirits as a craft distillery, a state license tax of \$1,000.

398 ~~3.2-~~ If engaged in the business of rectifying and blending
399 spirituous liquors and nothing else, a state license tax of
400 \$4,000.

401 Section 10. This act shall take effect July 1, 2017.