

By Senator Perry

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1                                   A bill to be entitled  
2       An act relating to alcoholic beverages; amending s.  
3       561.11, F.S.; authorizing the Division of Alcoholic  
4       Beverages and Tobacco of the Department of Business  
5       and Professional Regulation to appoint division  
6       personnel; requiring specified personnel to have  
7       Selected Exempt Service status; amending s. 561.17,  
8       F.S.; revising the entities that may issue a  
9       certificate indicating an alcoholic beverage license  
10      applicant's place of business meets all of the  
11      sanitary requirements of the state; amending s.  
12      561.20, F.S.; revising who may be issued a special  
13      license in counties otherwise subject to limits on the  
14      number of licenses issued; revising the requirements  
15      for retaining certain business records; amending s.  
16      561.331, F.S.; requiring certain temporary beverage  
17      licenses to be issued by the district supervisor of a  
18      district without assessing additional fees or taxes;  
19      amending s. 565.03, F.S.; specifying the state license  
20      tax for craft distilleries; providing an effective  
21      date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Subsection (2) of section 561.11, Florida  
26 Statutes, is amended to read:

27       561.11 Power and authority of division.—

28       (2) The division shall have full power and authority to  
29 provide for the continuous training, appointment, and upgrading

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30 of all division personnel in their respective positions with the  
31 division. Notwithstanding any other law, chiefs, assistant  
32 chiefs, regional managers, including majors, and district or  
33 office managers, including captains, shall have Selected Exempt  
34 Service status in the state personnel designation. The ~~This~~  
35 training shall include the attendance of division personnel at  
36 workshops, seminars, or special schools established by the  
37 division or other organizations when attendance at such  
38 educational programs shall in the opinion of the division be  
39 deemed appropriate to the particular position that ~~which~~ the  
40 employee holds.

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

43 561.17 License and registration applications; approved  
44 person.—

45 (2) All applications for alcoholic beverage licenses for  
46 consumption on the premises shall be accompanied by a  
47 certificate of the Division of Hotels and Restaurants of the  
48 Department of Business and Professional Regulation or the  
49 Department of Agriculture and Consumer Services or the  
50 Department of Health or the Agency for Health Care  
51 Administration or the county health department that the place of  
52 business wherein the business is to be conducted meets all of  
53 the sanitary requirements of the state.

54 Section 3. Paragraph (a) of subsection (2) of section  
55 561.20, Florida Statutes, is amended to read:

56 561.20 Limitation upon number of licenses issued.—

57 (2) (a) The limitation of the number of licenses as provided  
58 in this section does not prohibit the issuance of a special

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59 license to:

60 1. Any bona fide hotel, motel, or motor court of not fewer  
61 than 80 guest rooms in any county having a population of less  
62 than 50,000 residents, and of not fewer than 100 guest rooms in  
63 any county having a population of 50,000 residents or greater;  
64 or any bona fide hotel or motel located in a historic structure,  
65 as defined in s. 561.01(21), with fewer than 100 guest rooms  
66 which derives at least 51 percent of its gross revenue from the  
67 rental of hotel or motel rooms, which is licensed as a public  
68 lodging establishment by the Division of Hotels and Restaurants;  
69 provided, however, that a bona fide hotel or motel with no fewer  
70 than 10 and no more than 25 guest rooms which is a historic  
71 structure, as defined in s. 561.01(21), in a municipality that  
72 on the effective date of this act has a population, according to  
73 the University of Florida's Bureau of Economic and Business  
74 Research Estimates of Population for 1998, of no fewer than  
75 25,000 and no more than 35,000 residents and that is within a  
76 constitutionally chartered county may be issued a special  
77 license. This special license shall allow the sale and  
78 consumption of alcoholic beverages only on the licensed premises  
79 of the hotel or motel. In addition, the hotel or motel must  
80 derive at least 60 percent of its gross revenue from the rental  
81 of hotel or motel rooms and the sale of food and nonalcoholic  
82 beverages; provided that ~~the provisions of~~ this subparagraph  
83 shall supersede local laws requiring a greater number of hotel  
84 rooms;

85 2. Any condominium accommodation of which no fewer than 100  
86 condominium units are wholly rentable to transients and which is  
87 licensed under ~~the provisions of~~ chapter 509, except that the

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88 license shall be issued only to the person or corporation which  
89 operates the hotel or motel operation and not to the association  
90 of condominium owners;

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

100 4. A food service establishment that has 1,800 ~~2,500~~ square  
101 feet of service area, is equipped to serve meals to 100 ~~150~~  
102 persons at one time, and derives at least 51 percent of its  
103 gross food and beverage revenue from the sale of food and  
104 nonalcoholic beverages during the first 60-day operating period  
105 and each 12-month operating period thereafter. A food service  
106 establishment granted a special license on or after January 1,  
107 1958, pursuant to general or special law may not operate as a  
108 package store and may not sell intoxicating beverages under such  
109 license after the hours of serving or consumption of food have  
110 elapsed. Failure by a licensee to meet the required percentage  
111 of food and nonalcoholic beverage gross revenues during the  
112 covered operating period shall result in revocation of the  
113 license or denial of the pending license application. A licensee  
114 whose license is revoked or an applicant whose pending  
115 application is denied, or any person required to qualify on the  
116 special license application, is ineligible to have any interest

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117 in a subsequent application for such a license for a period of  
118 120 days after the date of the final denial or revocation;

119 5. Any caterer, deriving at least 51 percent of its gross  
120 food and beverage revenue from the sale of food and nonalcoholic  
121 beverages, licensed by the Division of Hotels and Restaurants  
122 under chapter 509. This subparagraph does not apply to a  
123 culinary education program, as defined in s. 381.0072(2), which  
124 is licensed as a public food service establishment by the  
125 Division of Hotels and Restaurants and provides catering  
126 services. Notwithstanding any other ~~provision of~~ law to the  
127 contrary, a licensee under this subparagraph shall sell or serve  
128 alcoholic beverages only for consumption on the premises of a  
129 catered event at which the licensee is also providing prepared  
130 food, and shall prominently display its license at any catered  
131 event at which the caterer is selling or serving alcoholic  
132 beverages. The caterer must ensure that each catered event meets  
133 the 51 percent food and nonalcoholic beverage requirement. A  
134 licensee under this subparagraph shall purchase all alcoholic  
135 beverages it sells or serves at a catered event from a vendor  
136 licensed under s. 563.02(1), s. 564.02(1), or licensed under s.  
137 565.02(1) subject to the limitation imposed in subsection (1),  
138 as appropriate. A licensee under this subparagraph may not store  
139 any alcoholic beverages to be sold or served at a catered event.  
140 Any alcoholic beverages purchased by a licensee under this  
141 subparagraph for a catered event that are not used at that event  
142 must remain with the customer; provided that if the vendor  
143 accepts unopened alcoholic beverages, the licensee may return  
144 such alcoholic beverages to the vendor for a credit or  
145 reimbursement. Regardless of the county or counties in which the

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146 licensee operates, a licensee under this subparagraph shall pay  
147 the annual state license tax set forth in s. 565.02(1)(b). A  
148 licensee under this subparagraph must maintain for a period of 3  
149 years all records and receipts for each catered event, including  
150 all contracts, customers' names, locations, dates, food  
151 purchases and sales, alcoholic beverage purchases and sales,  
152 nonalcoholic beverage purchases and sales, and any other records  
153 required by the department by rule to demonstrate compliance  
154 with the requirements of this subparagraph, ~~including licensed~~  
155 ~~vendor receipts for the purchase of alcoholic beverages and~~  
156 ~~records identifying each customer and the location and date of~~  
157 ~~each catered event~~. Notwithstanding any ~~provision of law to the~~  
158 contrary, any vendor licensed under s. 565.02(1) subject to the  
159 limitation imposed in subsection (1), may, without any  
160 additional licensure under this subparagraph, serve or sell  
161 alcoholic beverages for consumption on the premises of a catered  
162 event at which prepared food is provided by a caterer licensed  
163 under chapter 509. If a licensee under this subparagraph also  
164 possesses any other license under the Beverage Law, the license  
165 issued under this subparagraph shall not authorize the holder to  
166 conduct activities on the premises to which the other license or  
167 licenses apply that would otherwise be prohibited by the terms  
168 of that license or the Beverage Law. Nothing in this section  
169 shall permit the licensee to conduct activities that are  
170 otherwise prohibited by the Beverage Law or local law. The  
171 Division of Alcoholic Beverages and Tobacco is hereby authorized  
172 to adopt rules to administer the license created in this  
173 subparagraph, to include rules governing licensure,  
174 recordkeeping, and enforcement. The first \$300,000 in fees

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175 collected by the division each fiscal year pursuant to this  
176 subparagraph shall be deposited in the Department of Children  
177 and Families' Operations and Maintenance Trust Fund to be used  
178 only for alcohol and drug abuse education, treatment, and  
179 prevention programs. The remainder of the fees collected shall  
180 be deposited into the Hotel and Restaurant Trust Fund created  
181 pursuant to s. 509.072; or

182         6. A culinary education program as defined in s.  
183 381.0072(2) which is licensed as a public food service  
184 establishment by the Division of Hotels and Restaurants.

185             a. This special license shall allow the sale and  
186 consumption of alcoholic beverages on the licensed premises of  
187 the culinary education program. The culinary education program  
188 shall specify designated areas in the facility where the  
189 alcoholic beverages may be consumed at the time of application.  
190 Alcoholic beverages sold for consumption on the premises may be  
191 consumed only in areas designated pursuant to s. 561.01(11) and  
192 may not be removed from the designated area. Such license shall  
193 be applicable only in and for designated areas used by the  
194 culinary education program.

195             b. If the culinary education program provides catering  
196 services, this special license shall also allow the sale and  
197 consumption of alcoholic beverages on the premises of a catered  
198 event at which the licensee is also providing prepared food. A  
199 culinary education program that provides catering services is  
200 not required to derive at least 51 percent of its gross revenue  
201 from the sale of food and nonalcoholic beverages.

202 Notwithstanding any other provision of law to the contrary, a  
203 licensee that provides catering services under this sub-

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204 subparagraph shall prominently display its beverage license at  
205 any catered event at which the caterer is selling or serving  
206 alcoholic beverages. Regardless of the county or counties in  
207 which the licensee operates, a licensee under this sub-  
208 subparagraph shall pay the annual state license tax set forth in  
209 s. 565.02(1)(b). A licensee under this sub-subparagraph must  
210 maintain for a period of 3 years all records required by the  
211 department by rule to demonstrate compliance with the  
212 requirements of this sub-subparagraph.

213 c. If a licensee under this subparagraph also possesses any  
214 other license under the Beverage Law, the license issued under  
215 this subparagraph does not authorize the holder to conduct  
216 activities on the premises to which the other license or  
217 licenses apply that would otherwise be prohibited by the terms  
218 of that license or the Beverage Law. Nothing in this  
219 subparagraph shall permit the licensee to conduct activities  
220 that are otherwise prohibited by the Beverage Law or local law.  
221 Any culinary education program that holds a license to sell  
222 alcoholic beverages shall comply with the age requirements set  
223 forth in ss. 562.11(4), 562.111(2), and 562.13.

224 d. The Division of Alcoholic Beverages and Tobacco may  
225 adopt rules to administer the license created in this  
226 subparagraph, to include rules governing licensure,  
227 recordkeeping, and enforcement.

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

231  
232 However, any license heretofore issued to any such hotel, motel,



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233 motor court, or restaurant or hereafter issued to any such  
234 hotel, motel, or motor court, including a condominium  
235 accommodation, under the general law shall not be moved to a new  
236 location, such license being valid only on the premises of such  
237 hotel, motel, motor court, or restaurant. Licenses issued to  
238 hotels, motels, motor courts, or restaurants under the general  
239 law and held by such hotels, motels, motor courts, or  
240 restaurants on May 24, 1947, shall be counted in the quota  
241 limitation contained in subsection (1). Any license issued for  
242 any hotel, motel, or motor court under ~~the provisions of this~~  
243 law shall be issued only to the owner of the hotel, motel, or  
244 motor court or, in the event the hotel, motel, or motor court is  
245 leased, to the lessee of the hotel, motel, or motor court; and  
246 the license shall remain in the name of the owner or lessee so  
247 long as the license is in existence. Any special license now in  
248 existence heretofore issued under ~~the provisions of this law~~  
249 cannot be renewed except in the name of the owner of the hotel,  
250 motel, motor court, or restaurant or, in the event the hotel,  
251 motel, motor court, or restaurant is leased, in the name of the  
252 lessee of the hotel, motel, motor court, or restaurant in which  
253 the license is located and must remain in the name of the owner  
254 or lessee so long as the license is in existence. Any license  
255 issued under this section shall be marked "Special," and nothing  
256 herein provided shall limit, restrict, or prevent the issuance  
257 of a special license for any restaurant or motel which shall  
258 hereafter meet the requirements of the law existing immediately  
259 prior to the effective date of this act, if construction of such  
260 restaurant has commenced prior to the effective date of this act  
261 and is completed within 30 days thereafter, or if an application

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262 is on file for such special license at the time this act takes  
263 effect; and any such licenses issued under this proviso may be  
264 annually renewed as now provided by law. Nothing herein prevents  
265 an application for transfer of a license to a bona fide  
266 purchaser of any hotel, motel, motor court, or restaurant by the  
267 purchaser of such facility or the transfer of such license  
268 pursuant to law.

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

271 561.331 Temporary license upon application for transfer,  
272 change of location, or change of type or series.—

273 (1) Upon the filing of a properly completed application for  
274 transfer pursuant to s. 561.32, which application does not on  
275 its face disclose any reason for denying an alcoholic beverage  
276 license, by any purchaser of a business that ~~which~~ possesses a  
277 beverage license of any type or series, the purchaser of such  
278 business and the applicant for transfer are entitled as a matter  
279 of right to receive a temporary beverage license of the same  
280 type and series as that held by the seller of such business. The  
281 temporary license will be valid for all purposes under the  
282 Beverage Law until the application is denied or until 14 days  
283 after the application is approved. Such temporary beverage  
284 license shall be issued by the district supervisor of the  
285 district in which the application for transfer is made without  
286 the assessment of any additional fee or tax ~~upon the payment of~~  
287 ~~a fee of \$100~~. A purchaser operating under ~~the provisions of~~  
288 this subsection is subject to the same rights, privileges,  
289 duties, and limitations of a beverage licensee as are provided  
290 by law, except that purchases of alcoholic beverages during the

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291 term of such temporary license shall be for cash only. However,  
292 such cash-only restriction does not apply if the entity holding  
293 a temporary license pursuant to this section purchases alcoholic  
294 beverages as part of a single-transaction cooperative purchase  
295 placed by a pool buying agent or if such entity is also the  
296 holder of a state beverage license authorizing the purchase of  
297 the same type of alcoholic beverages as authorized under the  
298 temporary license.

299 (3) Upon the filing of a properly completed application to  
300 change the type or series of a beverage license by any qualified  
301 licensee having a beverage license of any type or series, which  
302 application does not on its face disclose any reason for denying  
303 an alcoholic beverage license, the licensee is entitled as a  
304 matter of right to receive a temporary beverage license of the  
305 type or series applied for, which temporary license is valid for  
306 all purposes under the Beverage Law until the application is  
307 denied or until 14 days after the application is approved. Such  
308 temporary license shall be issued by the district supervisor of  
309 the district in which the application for change of type or  
310 series is made. If the department issues a notice of intent to  
311 deny the license application for failure of the applicant to  
312 disclose the information required by s. 561.15(2) or (4), the  
313 temporary license for transfer, change of location, or change of  
314 type of series expires and shall not be extended during any  
315 proceeding for administrative or judicial review pursuant to  
316 chapter 120. Such temporary license shall be issued by the  
317 district supervisor of the district in which the application for  
318 change of location is made without the assessment of any  
319 additional fee or tax ~~If the fee for the type or series or~~

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320 ~~license applied for is greater than the fee for the license then~~  
321 ~~held by the applicant, the applicant for such temporary license~~  
322 ~~must pay a fee in the amount of \$100 or one-fourth of the~~  
323 ~~difference between the fees, whichever amount is greater. A fee~~  
324 ~~is not required for an application for a temporary license of a~~  
325 ~~type or series for which the fee is the same as or less than the~~  
326 ~~fee for the license then held by the applicant. The holder of a~~  
327 ~~temporary license under this subsection is subject to the same~~  
328 ~~rights, privileges, duties, and limitations of a beverage~~  
329 ~~licensee as are provided by law.~~

330 Section 5. Paragraph (a) of subsection (2) of section  
331 565.03, Florida Statutes, is amended to read:

332 565.03 License fees; manufacturers, distributors, brokers,  
333 sales agents, and importers of alcoholic beverages; vendor  
334 licenses and fees; craft distilleries.-

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

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

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

343 ~~3.2.~~ If engaged in the business of rectifying and blending  
344 spirituous liquors and nothing else, a state license tax of  
345 \$4,000.

346 Section 6. This act shall take effect July 1, 2017.