

By the Committee on Regulated Industries; and 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 repealing s. 564.05, F.S., relating to limitations on
20 the size of individual wine containers; amending s.
21 564.055; F.S.; authorizing the packaging, filling,
22 refilling, or sale, of cider in growlers amending s.
23 564.09, F.S.; revising provisions authorizing a
24 restaurant to allow a patron to remove a resealed wine
25 container from a restaurant for off-premises
26 consumption; amending s. 565.03, F.S.; specifying the
27 state license tax for craft distilleries; providing an
28 effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Subsection (2) of section 561.11, Florida
33 Statutes, is amended to read:

34 561.11 Power and authority of division.—

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

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

50 561.17 License and registration applications; approved
51 person.—

52 (2) All applications for alcoholic beverage licenses for
53 consumption on the premises shall be accompanied by a
54 certificate of the Division of Hotels and Restaurants of the
55 Department of Business and Professional Regulation or the
56 Department of Agriculture and Consumer Services or the
57 Department of Health or the Agency for Health Care
58 Administration or the county health department that the place of

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59 business wherein the business is to be conducted meets all of
60 the sanitary requirements of the state.

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

63 561.20 Limitation upon number of licenses issued.—

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

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

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88 of hotel or motel rooms and the sale of food and nonalcoholic
89 beverages; provided that ~~the provisions of~~ this subparagraph
90 shall supersede local laws requiring a greater number of hotel
91 rooms;

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

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

107 4. A food service establishment that has 2,500 square feet
108 of service area, is equipped to serve meals to 150 persons at
109 one time, and derives at least 51 percent of its gross food and
110 beverage revenue from the sale of food and nonalcoholic
111 beverages during the first 60-day operating period and each 12-
112 month operating period thereafter. A food service establishment
113 granted a special license on or after January 1, 1958, pursuant
114 to general or special law may not operate as a package store and
115 may not sell intoxicating beverages under such license after the
116 hours of serving or consumption of food have elapsed. Failure by

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117 a licensee to meet the required percentage of food and
118 nonalcoholic beverage gross revenues during the covered
119 operating period shall result in revocation of the license or
120 denial of the pending license application. A licensee whose
121 license is revoked or an applicant whose pending application is
122 denied, or any person required to qualify on the special license
123 application, is ineligible to have any interest in a subsequent
124 application for such a license for a period of 120 days after
125 the date of the final denial or revocation;

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

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

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175 of that license or the Beverage Law. Nothing in this section
176 shall permit the licensee to conduct activities that are
177 otherwise prohibited by the Beverage Law or local law. The
178 Division of Alcoholic Beverages and Tobacco is hereby authorized
179 to adopt rules to administer the license created in this
180 subparagraph, to include rules governing licensure,
181 recordkeeping, and enforcement. The first \$300,000 in fees
182 collected by the division each fiscal year pursuant to this
183 subparagraph shall be deposited in the Department of Children
184 and Families' Operations and Maintenance Trust Fund to be used
185 only for alcohol and drug abuse education, treatment, and
186 prevention programs. The remainder of the fees collected shall
187 be deposited into the Hotel and Restaurant Trust Fund created
188 pursuant to s. 509.072; or

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

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

202 b. If the culinary education program provides catering
203 services, this special license shall also allow the sale and

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

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

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

231 d. The Division of Alcoholic Beverages and Tobacco may
232 adopt rules to administer the license created in this

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233 subparagraph, to include rules governing licensure,
234 recordkeeping, and enforcement.

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

238

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

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

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

278 561.331 Temporary license upon application for transfer,
279 change of location, or change of type or series.—

280 (1) Upon the filing of a properly completed application for
281 transfer pursuant to s. 561.32, which application does not on
282 its face disclose any reason for denying an alcoholic beverage
283 license, by any purchaser of a business that ~~which~~ possesses a
284 beverage license of any type or series, the purchaser of such
285 business and the applicant for transfer are entitled as a matter
286 of right to receive a temporary beverage license of the same
287 type and series as that held by the seller of such business. The
288 temporary license will be valid for all purposes under the
289 Beverage Law until the application is denied or until 14 days
290 after the application is approved. Such temporary beverage

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

306 (3) Upon the filing of a properly completed application to
307 change the type or series of a beverage license by any qualified
308 licensee having a beverage license of any type or series, which
309 application does not on its face disclose any reason for denying
310 an alcoholic beverage license, the licensee is entitled as a
311 matter of right to receive a temporary beverage license of the
312 type or series applied for, which temporary license is valid for
313 all purposes under the Beverage Law until the application is
314 denied or until 14 days after the application is approved. Such
315 temporary license shall be issued by the district supervisor of
316 the district in which the application for change of type or
317 series is made without the assessment of any additional fee or
318 tax. If the department issues a notice of intent to deny the
319 license application for failure of the applicant to disclose the

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320 information required by s. 561.15(2) or (4), the temporary
321 license for transfer, change of location, or change of type of
322 series expires and shall not be extended during any proceeding
323 for administrative or judicial review pursuant to chapter 120.
324 ~~If the fee for the type or series or license applied for is~~
325 ~~greater than the fee for the license then held by the applicant,~~
326 ~~the applicant for such temporary license must pay a fee in the~~
327 ~~amount of \$100 or one-fourth of the difference between the fees,~~
328 ~~whichever amount is greater. A fee is not required for an~~
329 ~~application for a temporary license of a type or series for~~
330 ~~which the fee is the same as or less than the fee for the~~
331 ~~license then held by the applicant.~~ The holder of a temporary
332 license under this subsection is subject to the same rights,
333 privileges, duties, and limitations of a beverage licensee as
334 are provided by law.

335 Section 5. Section 564.05, Florida Statutes, is repealed.

336 Section 6. Section 564.055, Florida Statutes, is amended to
337 read

338 564.055 Cider containers.—Notwithstanding any other law to
339 the contrary, cider, as defined in s. 564.06(4), may be sold by
340 vendors at retail in any size individual container containing no
341 more than 32 ounces of cider; however, this section does not
342 prohibit cider from being packaged and sold in bulk, in kegs or
343 barrels, or in any individual container that contains 1 gallon
344 or more of cider, regardless of container type. In addition,
345 cider may be packaged, filled, refilled, or sold in 32 ounce, 64
346 ounce, and 1 gallon growlers in the same manner and under the
347 same restrictions as authorized for malt beverages pursuant to
348 s. 563.06(7).

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349 Section 7. Section 564.09, Florida Statutes, is amended to
350 read:

351 564.09 Restaurants; off-premises consumption of wine.-
352 Notwithstanding any other provision of law, a restaurant
353 licensed to sell wine on the premises may permit a patron to
354 remove one unsealed bottle of wine for consumption off the
355 premises if the patron has purchased a ~~full course~~ meal
356 ~~consisting of a salad or vegetable, entree, a beverage, and~~
357 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
358 ~~meal~~ on the restaurant premises. A partially consumed bottle of
359 wine that is to be removed from the premises must be securely
360 resealed by the licensee or its employees before removal from
361 the premises. The partially consumed bottle of wine shall be
362 placed in a bag or other container that is secured in such a
363 manner that it is visibly apparent if the container has been
364 subsequently opened or tampered with, and a dated receipt for
365 the bottle of wine and ~~full course~~ meal shall be provided by the
366 licensee and attached to the container. If transported in a
367 motor vehicle, the container with the resealed bottle of wine
368 must be placed in a locked glove compartment, a locked trunk, or
369 the area behind the last upright seat of a motor vehicle that is
370 not equipped with a trunk.

371 Section 8. Paragraph (a) of subsection (2) of section
372 565.03, Florida Statutes, is amended to read:

373 565.03 License fees; manufacturers, distributors, brokers,
374 sales agents, and importers of alcoholic beverages; vendor
375 licenses and fees; craft distilleries.-

376 (2) (a) A distillery authorized to do business under the
377 Beverage Law shall pay an annual state license tax for each

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378 plant or branch operating in the state, as follows:

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

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

384 ~~3.2.~~ If engaged in the business of rectifying and blending
385 spirituous liquors and nothing else, a state license tax of
386 \$4,000.

387 Section 9. This act shall take effect July 1, 2017.