

1 A bill to be entitled
 2 An act relating to the Beverage Law; amending s.
 3 561.42, F.S.; providing an exemption from provisions
 4 relating to the tied house evil for specified
 5 financial transactions between a manufacturer or
 6 importer of malt beverages and a licensed vendor;
 7 providing conditions for the exemption; providing
 8 penalties; providing an effective date.

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

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

14 561.42 Tied house evil; financial aid and assistance to
 15 vendor by manufacturer, distributor, importer, primary American
 16 source of supply, brand owner or registrant, or any broker,
 17 sales agent, or sales person thereof, prohibited; procedure for
 18 enforcement; exception.—

19 (1) No manufacturer, distributor, importer, primary
 20 American source of supply, or brand owner or registrant of any
 21 of the beverages herein referred to, whether licensed or
 22 operating in this state or out-of-state, nor any broker, sales
 23 agent, or sales person thereof, shall have any financial
 24 interest, directly or indirectly, in the establishment or
 25 business of any vendor licensed under the Beverage Law; nor

26 | shall 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, assist any vendor
29 | by any gifts or loans of money or property of any description or
30 | by the giving of any rebates of any kind whatsoever. No licensed
31 | vendor shall accept, directly or indirectly, any gift or loan of
32 | money or property of any description or any rebates from any
33 | such manufacturer, distributor, importer, primary American
34 | source of supply, brand owner or brand registrant, or any
35 | broker, sales agent, or sales person thereof; provided, however,
36 | that this does not apply to any bottles, barrels, or other
37 | containers necessary for the legitimate transportation of such
38 | beverages or to advertising materials and does not apply to the
39 | extension of credit, for liquors sold, made strictly in
40 | compliance with the provisions of this section. A brand owner is
41 | a person who is not a manufacturer, distributor, importer,
42 | primary American source of supply, brand registrant, or broker,
43 | sales agent, or sales person thereof, but who directly or
44 | indirectly owns or controls any brand, brand name, or label of
45 | alcoholic beverage. Nothing in this section shall prohibit the
46 | ownership by vendors of any brand, brand name, or label of
47 | alcoholic beverage.

48 | (a) A manufacturer or importer of malt beverages and a
49 | vendor may enter into a written agreement for brand naming
50 | rights negotiated at arm's length for no more than fair market

51 value if:

52 1. The vendor operates places of business where
53 consumption on the premises is permitted, which premises are
54 located within a theme park complex comprised of at least 25
55 contiguous acres owned and controlled by the same business
56 entity and which contains permanent exhibitions and a variety of
57 recreational activities and has a minimum of 1 million paid
58 admission visitors annually through a controlled entrance to and
59 exit from the theme park complex.

60 2. Such brand naming rights agreement does not involve,
61 either in whole or in part, the sale or distribution of malt
62 beverages between the manufacturer or importer, or its
63 distributor, and a vendor.

64 3. The vendor does not give preferential treatment to the
65 alcoholic beverage brand or brands of the naming rights
66 manufacturer or importer and the manufacturer or importer does
67 not solicit or otherwise attempt to obtain preferential
68 treatment.

69 4. Such brand naming rights agreement does not limit,
70 either directly or indirectly, the sale of alcoholic beverages
71 from another manufacturer, importer, or distributor.

72 5. A distributor does not, directly or indirectly, pay any
73 portion of the brand naming rights agreement.

74 6. The vendor files with the division, at least 90 days in
75 advance, a description of the written agreement for brand naming

76 rights, which includes the location, dates, and the name of the
77 manufacturer or importer that entered into the agreement.

78 (b)1. Any person, vendor, manufacturer, or importer who,
79 through coercion or other illegal means, induces, directly or
80 indirectly, a distributor to provide payment under subparagraph
81 (a)5. shall be guilty of a misdemeanor and shall be punished by
82 imprisonment in the county jail for a period not to exceed 6
83 months, or by a fine in an amount equal to the total value of
84 the naming rights agreement plus \$10,000 dollars, or by both
85 imprisonment and fine.

86 2. Each vendor who violates paragraph (a) shall be subject
87 to license suspension for 7 days and a fine in an amount not
88 less than the brand naming rights agreement. Each manufacturer,
89 distributor, or importer who violates paragraph (a) shall be
90 subject to license suspension for 7 days and a fine in an amount
91 not less than the brand naming rights agreement and, if
92 applicable, suspension of its brand registration within the
93 state for 30 days for the brand that is the subject of the brand
94 naming rights agreement.

95 Section 2. This act shall take effect July 1, 2017.