

1 A bill to be entitled
2 An act relating to the Department of Business and
3 Professional Regulation; amending s. 561.11, F.S.;
4 revising the power and authority of the Division of
5 Alcoholic Beverages and Tobacco to include appointment
6 of division personnel; requiring that certain
7 personnel be assigned to the Selected Exempt Service;
8 amending s. 561.17, F.S.; authorizing the Agency for
9 Health Care Administration to certify that an
10 alcoholic beverage license applicant's place of
11 business meets sanitary requirements; amending s.
12 561.20, F.S.; revising provisions related to special
13 licenses to sell alcoholic beverages for certain food
14 service establishments and licensed caterers; amending
15 s. 561.331, F.S.; removing the fee for transferring or
16 changing the location of a temporary beverage license;
17 amending s. 565.03, F.S.; revising requirements for an
18 annual state license tax for a distillery and craft
19 distillery; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (2) of section 561.11, Florida
24 Statutes, is amended to read:

25 561.11 Power and authority of division.—

26 (2) The division shall have full power and authority to
 27 appoint division personnel and provide for the continuous
 28 training and upgrading of all such ~~division~~ personnel in their
 29 respective positions with the division. Notwithstanding any law
 30 to the contrary, chiefs, assistant chiefs, regional managers
 31 including majors, and district and office managers including
 32 captains shall be assigned to the Selected Exempt Service and
 33 their salaries and benefits shall be set by the Department of
 34 Management Services in accordance with the rules of the Selected
 35 Exempt Service under part V of chapter 110. The ~~This~~ training
 36 shall include the attendance of such ~~division~~ personnel at
 37 workshops, seminars, or special schools established by the
 38 division or other organizations when attendance at such
 39 educational programs shall in the opinion of the division be
 40 deemed appropriate to the particular position that ~~which~~ the
 41 employee holds.

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

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

46 (2) All applications for alcoholic beverage licenses for
 47 consumption on the premises shall be accompanied by a
 48 certificate of the Division of Hotels and Restaurants of the
 49 Department of Business and Professional Regulation, ~~or~~ the
 50 Department of Agriculture and Consumer Services, ~~or~~ the

51 Department of Health, the Agency for Health Care Administration,
52 or the county health department that the place of business
53 wherein the business is to be conducted meets all of the
54 sanitary requirements of the state.

55 Section 3. Paragraph (a) of subsection (2) of section
56 561.20, Florida Statutes, is amended to read:

57 561.20 Limitation upon number of licenses issued.—

58 (2) (a) The limitation of the number of licenses as
59 provided in this section does not prohibit the issuance of a
60 special license to:

61 1. Any bona fide hotel, motel, or motor court of not fewer
62 than 80 guest rooms in any county having a population of less
63 than 50,000 residents, and of not fewer than 100 guest rooms in
64 any county having a population of 50,000 residents or greater;
65 or any bona fide hotel or motel located in a historic structure,
66 as defined in s. 561.01(21), with fewer than 100 guest rooms
67 which derives at least 51 percent of its gross revenue from the
68 rental of hotel or motel rooms, which is licensed as a public
69 lodging establishment by the Division of Hotels and Restaurants;
70 provided, however, that a bona fide hotel or motel with no fewer
71 than 10 and no more than 25 guest rooms which is a historic
72 structure, as defined in s. 561.01(21), in a municipality that
73 on the effective date of this act has a population, according to
74 the University of Florida's Bureau of Economic and Business
75 Research Estimates of Population for 1998, of no fewer than

76 25,000 and no more than 35,000 residents and that is within a
77 constitutionally chartered county may be issued a special
78 license. This special license shall allow the sale and
79 consumption of alcoholic beverages only on the licensed premises
80 of the hotel or motel. In addition, the hotel or motel must
81 derive at least 60 percent of its gross revenue from the rental
82 of hotel or motel rooms and the sale of food and nonalcoholic
83 beverages; provided that ~~the provisions of~~ this subparagraph
84 shall supersede local laws requiring a greater number of hotel
85 rooms;

86 2. Any condominium accommodation of which no fewer than
87 100 condominium units are wholly rentable to transients and
88 which is licensed under ~~the provisions of~~ chapter 509, except
89 that the license shall be issued only to the person or
90 corporation which operates the hotel or motel operation and not
91 to the association of condominium owners;

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

101 4. A food service establishment that has 1,800 ~~2,500~~
102 square feet of service area, is equipped to serve meals to 100
103 ~~150~~ persons at one time, and derives at least 51 percent of its
104 gross food and beverage revenue from the sale of food and
105 nonalcoholic beverages during the first 60-day operating period
106 and each 12-month operating period thereafter. A food service
107 establishment granted a special license on or after January 1,
108 1958, pursuant to general or special law may not operate as a
109 package store and may not sell intoxicating beverages under such
110 license after the hours of serving or consumption of food have
111 elapsed. Failure by a licensee to meet the required percentage
112 of food and nonalcoholic beverage gross revenues during the
113 covered operating period shall result in revocation of the
114 license or denial of the pending license application. A licensee
115 whose license is revoked or an applicant whose pending
116 application is denied, or any person required to qualify on the
117 special license application, is ineligible to have any interest
118 in a subsequent application for such a license for a period of
119 120 days after the date of the final denial or revocation;

120 5. Any caterer, deriving at least 51 percent of its gross
121 food and beverage revenue from the sale of food and nonalcoholic
122 beverages at each catered event, licensed by the Division of
123 Hotels and Restaurants under chapter 509. This subparagraph does
124 not apply to a culinary education program, as defined in s.
125 381.0072(2), which is licensed as a public food service

126 establishment by the Division of Hotels and Restaurants and
127 provides catering services. Notwithstanding any ~~other provision~~
128 ~~of~~ law to the contrary, a licensee under this subparagraph shall
129 sell or serve alcoholic beverages only for consumption on the
130 premises of a catered event at which the licensee is also
131 providing prepared food, and shall prominently display its
132 license at any catered event at which the caterer is selling or
133 serving alcoholic beverages. A licensee under this subparagraph
134 shall purchase all alcoholic beverages it sells or serves at a
135 catered event from a vendor licensed under s. 563.02(1), s.
136 564.02(1), or licensed under s. 565.02(1) subject to the
137 limitation imposed in subsection (1), as appropriate. A licensee
138 under this subparagraph may not store any alcoholic beverages to
139 be sold or served at a catered event. Any alcoholic beverages
140 purchased by a licensee under this subparagraph for a catered
141 event that are not used at that event must remain with the
142 customer; provided that if the vendor accepts unopened alcoholic
143 beverages, the licensee may return such alcoholic beverages to
144 the vendor for a credit or reimbursement. Regardless of the
145 county or counties in which the licensee operates, a licensee
146 under this subparagraph shall pay the annual state license tax
147 set forth in s. 565.02(1)(b). A licensee under this subparagraph
148 must maintain for a period of 3 years all records and receipts
149 for each catered event, including all contracts, customers'
150 names, event locations, event dates, food purchases and sales,

151 alcoholic beverage purchases and sales, nonalcoholic beverage
152 purchases and sales, and any other records required by the
153 department by rule to demonstrate compliance with the
154 requirements of this subparagraph, ~~including licensed vendor~~
155 ~~receipts for the purchase of alcoholic beverages and records~~
156 ~~identifying each customer and the location and date of each~~
157 ~~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
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-
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
214 any other license under the Beverage Law, the license issued
215 under 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,
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
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
274 for transfer pursuant to s. 561.32, which application does not
275 on its face disclose any reason for denying an alcoholic

276 | beverage license, by any purchaser of a business that ~~which~~
277 | possesses a beverage license of any type or series, the
278 | purchaser of such business and the applicant for transfer are
279 | entitled as a matter of right to receive a temporary beverage
280 | license of the same type and series as that held by the seller
281 | of such business. The temporary license will be valid for all
282 | purposes under the Beverage Law until the application is denied
283 | or until 14 days after the application is approved. Such
284 | temporary beverage license shall be issued by the district
285 | supervisor of the district in which the application for transfer
286 | is made without the assessment of any additional fee or tax ~~upon~~
287 | ~~the payment of a fee of \$100~~. A purchaser operating under ~~the~~
288 | ~~provisions of~~ this subsection is subject to the same rights,
289 | privileges, duties, and limitations of a beverage licensee as
290 | are provided by law, except that purchases of alcoholic
291 | beverages during the term of such temporary license shall be for
292 | cash only. However, such cash-only restriction does not apply if
293 | the entity holding a temporary license pursuant to this section
294 | purchases alcoholic beverages as part of a single-transaction
295 | cooperative purchase placed by a pool buying agent or if such
296 | entity is also the holder of a state beverage license
297 | authorizing the purchase of the same type of alcoholic beverages
298 | as authorized under the 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 without the assessment of any additional fee or
311 tax. If the department issues a notice of intent to deny the
312 license application for failure of the applicant to disclose the
313 information required by s. 561.15(2) or (4), the temporary
314 license for transfer, change of location, or change of type of
315 series expires and shall not be extended during any proceeding
316 for administrative or judicial review pursuant to chapter 120.
317 ~~If the fee for the type or series or license applied for is~~
318 ~~greater than the fee for the license then held by the applicant,~~
319 ~~the applicant for such temporary license must pay a fee in the~~
320 ~~amount of \$100 or one-fourth of the difference between the fees,~~
321 ~~whichever amount is greater. A fee is not required for an~~
322 ~~application for a temporary license of a type or series for~~
323 ~~which the fee is the same as or less than the fee for the~~
324 ~~license then held by the applicant.~~ The holder of a temporary
325 license under this subsection is subject to the same rights,

326 | privileges, duties, and limitations of a beverage licensee as
 327 | are provided by law.

328 | Section 5. Paragraph (a) of subsection (2) of section
 329 | 565.03, Florida Statutes, is amended to read:

330 | 565.03 License fees; manufacturers, distributors, brokers,
 331 | sales agents, and importers of alcoholic beverages; vendor
 332 | licenses and fees; distilleries and craft distilleries.—

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

337 | 1. A distillery ~~if~~ engaged in the business of
 338 | manufacturing distilled spirits: ~~, a state license tax of~~
 339 | \$4,000.

340 | 2. A craft distillery engaged in the business of
 341 | manufacturing distilled spirits: \$1,000.

342 | ~~3.2.~~ A person ~~if~~ engaged in the business of rectifying and
 343 | blending spirituous liquors and nothing else: ~~, a state license~~
 344 | ~~tax of~~ \$4,000.

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