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2017 Legislature

1
2 An act relating to the Division of Alcoholic Beverages
3 and Tobacco; amending s. 561.11, F.S.; revising the
4 power and authority of the division to include
5 appointment of division personnel; requiring that
6 certain personnel be assigned to the Selected Exempt
7 Service; amending s. 561.17, F.S.; authorizing the
8 Agency for Health Care Administration to certify that
9 an alcoholic beverage license applicant's place of
10 business meets sanitary requirements; amending s.
11 561.20, F.S.; revising provisions relating to special
12 licenses to sell alcoholic beverages for licensed
13 caterers; making technical changes; amending s.
14 561.331, F.S.; removing the fee for transferring or
15 changing the location of a temporary beverage license;
16 amending s. 562.13, F.S.; authorizing minors employed
17 by specified businesses to sell beer and wine under
18 certain circumstances; amending s. 564.01, F.S.;
19 revising a definition; amending s. 565.03, F.S.;
20 revising requirements for an annual state license tax
21 for a distillery and craft distillery; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
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26 Section 1. Subsection (2) of section 561.11, Florida
 27 Statutes, is amended to read:

28 561.11 Power and authority of division.—

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

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

47 561.17 License and registration applications; approved
 48 person.—

49 (2) All applications for alcoholic beverage licenses for
 50 consumption on the premises shall be accompanied by a

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51 certificate of the Division of Hotels and Restaurants of the
52 Department of Business and Professional Regulation, ~~or~~ the
53 Department of Agriculture and Consumer Services, ~~or~~ the
54 Department of Health, the Agency for Health Care Administration,
55 or the county health department that the place of business
56 wherein the business is to be conducted meets all of the
57 sanitary requirements of the state.

58 Section 3. Paragraph (a) of subsection (2) of section
59 561.20, Florida Statutes, is amended to read:

60 561.20 Limitation upon number of licenses issued.—

61 (2) (a) The limitation of the number of licenses as
62 provided in this section does not prohibit the issuance of a
63 special license to:

64 1. Any bona fide hotel, motel, or motor court of not fewer
65 than 80 guest rooms in any county having a population of less
66 than 50,000 residents, and of not fewer than 100 guest rooms in
67 any county having a population of 50,000 residents or greater;
68 or any bona fide hotel or motel located in a historic structure,
69 as defined in s. 561.01(21), with fewer than 100 guest rooms
70 which derives at least 51 percent of its gross revenue from the
71 rental of hotel or motel rooms, which is licensed as a public
72 lodging establishment by the Division of Hotels and Restaurants;
73 provided, however, that a bona fide hotel or motel with no fewer
74 than 10 and no more than 25 guest rooms which is a historic
75 structure, as defined in s. 561.01(21), in a municipality that

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76 | on the effective date of this act has a population, according to
77 | the University of Florida's Bureau of Economic and Business
78 | Research Estimates of Population for 1998, of no fewer than
79 | 25,000 and no more than 35,000 residents and that is within a
80 | constitutionally chartered county may be issued a special
81 | license. This special license shall allow the sale and
82 | consumption of alcoholic beverages only on the licensed premises
83 | of the hotel or motel. In addition, the hotel or motel must
84 | derive at least 60 percent of its gross revenue from the rental
85 | of hotel or motel rooms and the sale of food and nonalcoholic
86 | beverages; provided that ~~the provisions of~~ this subparagraph
87 | shall supersede local laws requiring a greater number of hotel
88 | rooms;

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

95 | 3. Any condominium accommodation of which no fewer than 50
96 | condominium units are wholly rentable to transients, which is
97 | licensed under ~~the provisions of~~ chapter 509, and which is
98 | located in any county having home rule under s. 10 or s. 11,
99 | Art. VIII of the State Constitution of 1885, as amended, and
100 | incorporated by reference in s. 6(e), Art. VIII of the State

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101 Constitution, except that the license shall be issued only to
102 the person or corporation that ~~which~~ operates the hotel or motel
103 operation and not to the association of condominium owners;

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

123 5. Any caterer, deriving at least 51 percent of its gross
124 food and beverage revenue from the sale of food and nonalcoholic
125 beverages at each catered event, licensed by the Division of

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126 Hotels and Restaurants under chapter 509. This subparagraph does
 127 not apply to a culinary education program, as defined in s.
 128 381.0072(2), which is licensed as a public food service
 129 establishment by the Division of Hotels and Restaurants and
 130 provides catering services. Notwithstanding any ~~other provision~~
 131 ~~of~~ law to the contrary, a licensee under this subparagraph shall
 132 sell or serve alcoholic beverages only for consumption on the
 133 premises of a catered event at which the licensee is also
 134 providing prepared food, and shall prominently display its
 135 license at any catered event at which the caterer is selling or
 136 serving alcoholic beverages. A licensee under this subparagraph
 137 shall purchase all alcoholic beverages it sells or serves at a
 138 catered event from a vendor licensed under s. 563.02(1), s.
 139 564.02(1), or licensed under s. 565.02(1) subject to the
 140 limitation imposed in subsection (1), as appropriate. A licensee
 141 under this subparagraph may not store any alcoholic beverages to
 142 be sold or served at a catered event. Any alcoholic beverages
 143 purchased by a licensee under this subparagraph for a catered
 144 event that are not used at that event must remain with the
 145 customer; provided that if the vendor accepts unopened alcoholic
 146 beverages, the licensee may return such alcoholic beverages to
 147 the vendor for a credit or reimbursement. Regardless of the
 148 county or counties in which the licensee operates, a licensee
 149 under this subparagraph shall pay the annual state license tax
 150 set forth in s. 565.02(1)(b). A licensee under this subparagraph

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

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176 | subparagraph, to include rules governing licensure,
177 | recordkeeping, and enforcement. The first \$300,000 in fees
178 | collected by the division each fiscal year pursuant to this
179 | subparagraph shall be deposited in the Department of Children
180 | and Families' Operations and Maintenance Trust Fund to be used
181 | only for alcohol and drug abuse education, treatment, and
182 | prevention programs. The remainder of the fees collected shall
183 | be deposited into the Hotel and Restaurant Trust Fund created
184 | pursuant to s. 509.072; or

185 | 6. A culinary education program as defined in s.
186 | 381.0072(2) which is licensed as a public food service
187 | establishment by the Division of Hotels and Restaurants.

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

198 | b. If the culinary education program provides catering
199 | services, this special license shall also allow the sale and
200 | consumption of alcoholic beverages on the premises of a catered

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201 event at which the licensee is also providing prepared food. A
202 culinary education program that provides catering services is
203 not required to derive at least 51 percent of its gross revenue
204 from the sale of food and nonalcoholic beverages.
205 Notwithstanding any ~~other provision of~~ law to the contrary, a
206 licensee that provides catering services under this sub-
207 subparagraph shall prominently display its beverage license at
208 any catered event at which the caterer is selling or serving
209 alcoholic beverages. Regardless of the county or counties in
210 which the licensee operates, a licensee under this sub-
211 subparagraph shall pay the annual state license tax set forth in
212 s. 565.02(1)(b). A licensee under this sub-subparagraph must
213 maintain for a period of 3 years all records required by the
214 department by rule to demonstrate compliance with the
215 requirements of this sub-subparagraph.

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

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

227 | d. The Division of Alcoholic Beverages and Tobacco may
228 | adopt rules to administer the license created in this
229 | subparagraph, to include rules governing licensure,
230 | recordkeeping, and enforcement.

231 | e. A license issued pursuant to this subparagraph does not
232 | permit the licensee to sell alcoholic beverages by the package
233 | for off-premises consumption.

234 |

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

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251 existence heretofore issued under ~~the provisions of~~ this law
252 cannot be renewed except in the name of the owner of the hotel,
253 motel, motor court, or restaurant or, in the event the hotel,
254 motel, motor court, or restaurant is leased, in the name of the
255 lessee of the hotel, motel, motor court, or restaurant in which
256 the license is located and must remain in the name of the owner
257 or lessee so long as the license is in existence. Any license
258 issued under this section shall be marked "Special," and nothing
259 herein provided shall limit, restrict, or prevent the issuance
260 of a special license for any restaurant or motel which shall
261 hereafter meet the requirements of the law existing immediately
262 prior to the effective date of this act, if construction of such
263 restaurant has commenced prior to the effective date of this act
264 and is completed within 30 days thereafter, or if an application
265 is on file for such special license at the time this act takes
266 effect; and any such licenses issued under this proviso may be
267 annually renewed as now provided by law. Nothing herein prevents
268 an application for transfer of a license to a bona fide
269 purchaser of any hotel, motel, motor court, or restaurant by the
270 purchaser of such facility or the transfer of such license
271 pursuant to law.

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

274 561.331 Temporary license upon application for transfer,
275 change of location, or change of type or series.—

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276 (1) Upon the filing of a properly completed application
 277 for transfer pursuant to s. 561.32, which application does not
 278 on its face disclose any reason for denying an alcoholic
 279 beverage license, by any purchaser of a business that ~~which~~
 280 possesses a beverage license of any type or series, the
 281 purchaser of such business and the applicant for transfer are
 282 entitled as a matter of right to receive a temporary beverage
 283 license of the same type and series as that held by the seller
 284 of such business. The temporary license will be valid for all
 285 purposes under the Beverage Law until the application is denied
 286 or until 14 days after the application is approved. Such
 287 temporary beverage license shall be issued by the district
 288 supervisor of the district in which the application for transfer
 289 is made without the assessment of any additional fee or tax ~~upon~~
 290 ~~the payment of a fee of \$100.~~ A purchaser operating under ~~the~~
 291 ~~provisions of~~ this subsection is subject to the same rights,
 292 privileges, duties, and limitations of a beverage licensee as
 293 are provided by law, except that purchases of alcoholic
 294 beverages during the term of such temporary license shall be for
 295 cash only. However, such cash-only restriction does not apply if
 296 the entity holding a temporary license pursuant to this section
 297 purchases alcoholic beverages as part of a single-transaction
 298 cooperative purchase placed by a pool buying agent or if such
 299 entity is also the holder of a state beverage license
 300 authorizing the purchase of the same type of alcoholic beverages

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301 as authorized under the temporary license.

302 (3) Upon the filing of a properly completed application to
303 change the type or series of a beverage license by any qualified
304 licensee having a beverage license of any type or series, which
305 application does not on its face disclose any reason for denying
306 an alcoholic beverage license, the licensee is entitled as a
307 matter of right to receive a temporary beverage license of the
308 type or series applied for, which temporary license is valid for
309 all purposes under the Beverage Law until the application is
310 denied or until 14 days after the application is approved. Such
311 temporary license shall be issued by the district supervisor of
312 the district in which the application for change of type or
313 series is made without the assessment of any additional fee or
314 tax. If the department issues a notice of intent to deny the
315 license application for failure of the applicant to disclose the
316 information required by s. 561.15(2) or (4), the temporary
317 license for transfer, change of location, or change of type of
318 series expires and shall not be extended during any proceeding
319 for administrative or judicial review pursuant to chapter 120.
320 ~~If the fee for the type or series or license applied for is~~
321 ~~greater than the fee for the license then held by the applicant,~~
322 ~~the applicant for such temporary license must pay a fee in the~~
323 ~~amount of \$100 or one-fourth of the difference between the fees,~~
324 ~~whichever amount is greater. A fee is not required for an~~
325 ~~application for a temporary license of a type or series for~~

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326 ~~which the fee is the same as or less than the fee for the~~
 327 ~~license then held by the applicant.~~ The holder of a temporary
 328 license under this subsection is subject to the same rights,
 329 privileges, duties, and limitations of a beverage licensee as
 330 are provided by law.

331 Section 5. Paragraph (c) of subsection (2) of section
 332 562.13, Florida Statutes, as amended by Senate Bill 106 or other
 333 similar legislation enacted in the 2017 Regular Session or an
 334 extension thereof, is amended to read:

335 562.13 Employment of minors or certain other persons by
 336 certain vendors prohibited; exceptions.—

337 (2) This section shall not apply to:

338 (c)1. Persons under the age of 18 years who are employed
 339 in a retail drugstore, grocery store, department store, florist
 340 shop, specialty gift shop, or automobile service station whose
 341 license fees are specified in ~~s. 563.02(1), s. 564.02(1), or s.~~
 342 565.02(1)(a), if such vendor derives 30 percent or less of its
 343 monthly gross revenue from sales of alcoholic beverages. This
 344 exception applies only if the minor employees are supervised by
 345 a person 18 years of age or older who verifies that any
 346 purchaser of alcoholic beverages is 21 years of age or older and
 347 who approves the sale of alcoholic beverages to such purchaser;
 348 however, the requirement for supervision and approval does not
 349 apply to the sale of beer and wine. Failure to comply with the
 350 restriction on monthly revenue from the sale of alcoholic

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351 beverages is unlawful if a person under the age of 18 years is
 352 employed in the licensed premises during a month that the
 353 restriction is exceeded.

354 2. Persons under the age of 18 years who are employed in a
 355 retail drug store, grocery store, department store, florist
 356 shop, specialty gift shop, or automobile service station that
 357 has obtained a license to sell only beer or beer and wine when
 358 such sales are made for consumption off the premises.

359
 360 However, a minor to whom this subsection otherwise applies may
 361 not be employed if the employment, whether as a professional
 362 entertainer or otherwise, involves nudity, as defined in s.
 363 847.001, on the part of the minor and such nudity is intended as
 364 a form of adult entertainment.

365 Section 6. Subsection (1) of section 564.01, Florida
 366 Statutes, is amended to read:

367 564.01 Definitions.—

368 (1) "Wine" means all beverages made from fresh fruits,
 369 berries, or grapes, either by natural fermentation or by natural
 370 fermentation with brandy added, in the manner required by the
 371 laws and regulations of the United States, and includes all
 372 sparkling wines, champagnes, combination of the aforesaid
 373 beverages, sake, vermouths, and like products. Sugar, flavors,
 374 and coloring materials may be added to wine to make it conform
 375 to the consumer's taste, except that the ultimate flavor or the

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

378 Section 7. Paragraph (a) of subsection (2) of section
 379 565.03, Florida Statutes, is amended to read:

380 565.03 License fees; manufacturers, distributors, brokers,
 381 sales agents, and importers of alcoholic beverages; vendor
 382 licenses and fees; distilleries and craft distilleries.—

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

387 1. A distillery ~~if~~ engaged in the business of
 388 manufacturing distilled spirits: ~~, a state license tax of~~
 389 \$4,000.

390 2. A craft distillery engaged in the business of
 391 manufacturing distilled spirits: \$1,000.

392 ~~3.2.~~ A person ~~if~~ engaged in the business of rectifying and
 393 blending spirituous liquors and nothing else: ~~, a state license~~
 394 ~~tax of~~ \$4,000.

395 Section 8. This act shall take effect July 1, 2017.