

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 1447	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	City of Orlando, Orange County	111	Y's 2	N's
SPONSOR(S):	Miller, M.	GOVERNOR'S ACTION:		Approved
COMPANION BILLS:	N/A			

SUMMARY ANALYSIS

HB 1447 passed the House on March 1, 2018, and subsequently passed the Senate on March 8, 2018.

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses who wish to serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a Special Restaurant Beverage (SRX) license, which allows a restaurant to sell any alcoholic beverage, including liquor, under certain circumstances. Under general law, a restaurant may be issued an SRX license if it has at least 2,500 square feet of service area, is equipped to serve meals to 150 customers simultaneously, and derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages.

The bill creates the "Downtown Restaurant Area" in the City of Orlando. Providing an exception to general law, the bill requires DBPR to issue an SRX license to a bona fide restaurant in the "Downtown Restaurant Area" that is licensed by DBPR and meets the following requirements: occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill provides that failure of a licensee who is issued an SRX license to meet the 51 percentage of food and nonalcoholic beverage gross revenue during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify on the SRX license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial or revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

The bill was approved by the Governor on March 23, 2018, ch. 2018-187, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell malt beverages or wine; however s. 561.20, F.S., limits the number of licenses that may be issued under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three (3) licenses per county that has approved the sale of intoxicating liquors.¹ This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.²

There are several exceptions to the quota license limitation. Businesses that meet the requirements set out in one of the exceptions pursuant to s. 561.20(2), F.S., may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.

One such license is the Special Restaurant Beverage (SRX) license, which may be issued to a "restaurant having 2,500 square feet of service area and equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages so long as any alcoholic beverages sold under such license is for on premises consumption only.³ Some older restaurants may qualify at a lower total gross revenue threshold.⁴ A restaurant must offer full course meal service at any time alcoholic beverages are being served to qualify for a license.⁵ A full course meal must contain a salad or vegetable, entrée, beverage, and bread.⁶

Effect of the Bill

The bill creates the "Downtown Restaurant Area" in the City of Orlando.

The bill also creates an exception to s. 561.20(1), F.S., by requiring DBPR to issue an SRX license to a bona fide restaurant in the "Downtown Restaurant Area" of the City of Orlando that is licensed by DBPR and occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter. The bill includes a complete legal description of the area in which the exemption will apply.

¹ Section 561.20(1), F.S.

² Section 565.02, F.S.

³ Section 561.20(2)(a)4., F.S. Current law requires the gross food and beverage revenue to be based on the first 60-day operating period and each 12-month operating period thereafter.

⁴ Rule 61A-3.0141, F.A.C. This provision applies to all licenses issued after April 18, 1972. For licenses issued between September 1, 1969 and April 18, 1972, at least 30 percent of the restaurant's total gross revenue must be derived from the sale of food and non-alcoholic beverages; for licenses issued prior to September 1, 1969, there is no minimum gross revenue threshold, but the restaurant must be "bona fide" and meet the other requirements of the rule.

⁵ *Id.*

⁶ *Id.*

The bill provides that failure of a licensee who is issued an SRX license to meet the 51 percentage of food and nonalcoholic beverage gross revenue during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify on the SRX license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial or revocation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Economic Impact Statement estimates the bill to be revenue positive due to the increase in sales tax revenue and licensing revenue.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 25, 2017

WHERE? *Orlando Sentinel*, a daily newspaper published in Orange County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?