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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/3R

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03/08/2018 12:53 PM

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Senator Brandes moved the following:

Senate Amendment (with title amendment)

Before line 16

insert:

Section 1. Subsection (14) of section 561.42, Florida Statutes, is amended to read:

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



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12 (14) The division shall adopt reasonable rules governing
13 promotional displays and advertising. Such rules may, ~~which~~
14 ~~rules shall~~ not conflict with or be more stringent than the
15 federal regulations pertaining to such promotional displays and
16 advertising furnished to vendors by distributors, manufacturers,
17 importers, primary American sources of supply, or brand owners
18 or registrants, or any sales agent or sales person thereof;
19 however:

20 (a) If a manufacturer, distributor, importer, brand owner,
21 or brand registrant of malt beverage, or any sales agent or
22 sales person thereof, provides a vendor with branded expendable
23 retailer advertising specialties such as trays, coasters, mats,
24 menu cards, napkins, cups, glassware ~~glasses~~, thermometers, and
25 the like, such items may be sold only at a price not less than
26 the actual cost to the industry member who initially purchased
27 them, without limitation in total dollar value of such items
28 sold to a vendor. However, a distributor that receives glassware
29 at no charge on a no-charge invoice from a malt beverage
30 manufacturer or importer may give such glassware to a vendor
31 licensed to sell malt beverages for on-premises consumption.
32 Each piece of glassware given to a vendor by a distributor must
33 bear a permanent manufacturer or brand name intended to
34 prominently advertise the manufacturer or brand. A distributor
35 may not give a vendor more than 10 cases of glassware per
36 calendar year per licensed premises. A vendor that receives a
37 gift of glassware from a distributor may not sell the glassware
38 or return it to a distributor for cash, credit, or replacement.
39 A manufacturer or importer who sells or gives glassware to a
40 distributor, a distributor who sells or gives glassware to a



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41 vendor, and such vendor, must maintain records of such sale or
42 gift of glassware.

43 1. These records must be maintained for 3 years by the
44 industry member. The records may be in any format so long as
45 they are available and legible to division personnel upon
46 request during normal business hours. A copy of any record
47 maintained or produced in compliance with this paragraph shall
48 be provided to each industry member who receives such glassware.
49 The copy shall be in a format accessible and readable by the
50 recipient and may not be provided in an electronic format that
51 would require proprietary software unavailable to the recipient.

52 These records must show:

53 a. The name and address of the recipient, the recipient's
54 employee or agent receiving the glassware;

55 b. The recipient's license number;

56 c. The date furnished, or given;

57 d. The description and quantity of glassware furnished, or
58 given;

59 e. The cost to the industry member determined by the
60 original purchaser's invoice price;

61 f. The charges to the recipient for the glassware, if any;
62 and

63 g. The name, license number, and address of the industry
64 member providing the glassware.

65 2. As used in this paragraph, the term:

66 a. "Case" means a box containing up to 24 pieces of
67 glassware.

68 b. "Glassware" means a single-service glass container that
69 can hold no more than 23 ounces of liquid volume.



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70 (b) Without limitation in total dollar value of such items
71 provided to a vendor, a manufacturer, distributor, importer,
72 brand owner, or brand registrant of malt beverage, or any sales
73 agent or sales person thereof, may rent, loan without charge for
74 an indefinite duration, or sell durable retailer advertising
75 specialties such as clocks, pool table lights, and the like,
76 which bear advertising matter.

77 (c) If a manufacturer, distributor, importer, brand owner,
78 or brand registrant of malt beverage, or any sales agent or
79 sales person thereof, provides a vendor with consumer
80 advertising specialties such as ashtrays, T-shirts, bottle
81 openers, shopping bags, and the like, such items may be sold
82 only at a price not less than the actual cost to the industry
83 member who initially purchased them, and may be sold without
84 limitation in total value of such items sold to a vendor.

85 (d) A manufacturer, distributor, importer, brand owner, or
86 brand registrant of malt beverage, or any sales agent or sales
87 person thereof, may provide consumer advertising specialties
88 described in paragraph (c) to consumers on any vendor's licensed
89 premises.

90 (e) A manufacturer, distributor, importer, brand owner, or
91 brand registrant of malt beverages, and any sales agent or sales
92 person thereof or contracted third-party, may not engage in
93 cooperative advertising with a vendor and may not name a vendor
94 in any advertising for a malt beverage tasting authorized under
95 s. 563.09.

96 (f) A distributor of malt beverages may sell to a vendor
97 draft equipment and tapping accessories at a price not less than
98 the cost to the industry member who initially purchased them,



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99 except there is no required charge, and the distributor may
100 exchange any parts that are not compatible with a competitor's
101 system and are necessary to dispense the distributor's brands. A
102 distributor of malt beverages may furnish to a vendor at no
103 charge replacement parts of nominal intrinsic value, including,
104 but not limited to, washers, gaskets, tail pieces, hoses, hose
105 connections, clamps, plungers, and tap markers.
106

107 ===== T I T L E A M E N D M E N T =====

108 And the title is amended as follows:

109 Between lines 2 and 3

110 insert:

111 561.42, F.S.; authorizing a malt beverage distributor
112 to give branded glassware to vendors licensed to sell
113 malt beverages for on-premises consumption; requiring
114 that the glassware bear certain branding; providing an
115 annual limit on the amount of glassware a distributor
116 may give to a vendor; prohibiting a vendor from
117 selling the branded glassware or returning it to a
118 distributor for cash, credit, or replacement;
119 requiring manufacturers, importers, distributors, and
120 vendors to maintain certain records; defining the
121 terms "case" and "glassware"; amending s.