

By Senator Mayfield

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1 A bill to be entitled
2 An act relating to manufacturers of malt beverages;
3 amending s. 561.221, F.S.; authorizing a manufacturer
4 to transfer to its licensed facility certain malt
5 beverages that are brewed by another manufacturer;
6 exempting certain manufacturers from requirements
7 relating to relations between beer distributors and
8 manufacturers; authorizing certain manufacturers to
9 sell, transport, and deliver certain malt beverages to
10 vendors; providing applicability; requiring certain
11 manufacturers to get written permission from a
12 distributor before making certain deliveries; revising
13 requirements for a licensed vendor to be licensed as a
14 manufacturer of malt beverages; defining the term
15 "barrel"; amending s. 563.022, F.S.; conforming a
16 provision to changes made by the act; authorizing a
17 manufacturer to terminate a contract with a
18 distributor under certain circumstances; amending s.
19 561.411, F.S.; revising requirements relating to
20 distributors' warehouse inventory and sales; amending
21 s. 561.5101, F.S.; providing an exception to the come-
22 to-rest requirement for certain deliveries made by
23 specified manufacturers; amending s. 561.57, F.S.;
24 deleting a prohibition on manufacturers with a
25 vendor's license making certain deliveries;
26 authorizing certain manufacturers to use certain
27 vehicles when making specified deliveries; providing
28 an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraphs (c) and (d) of subsection (2) and
33 paragraph (a) of subsection (3) of section 561.221, Florida
34 Statutes, are amended, and paragraphs (f) and (g) are added to
35 subsection (2) of that section, to read:

36 561.221 Licensing of manufacturers and distributors as
37 vendors and of vendors as manufacturers; conditions and
38 limitations.—

39 (2)

40 (c) Notwithstanding any other provision of the Beverage
41 Law, a manufacturer holding multiple manufacturing licenses may
42 transfer malt beverages to a licensed facility, as provided in
43 s. 563.022(14)(d), in an amount up to the yearly production
44 amount at the receiving facility. A manufacturer may also
45 transfer to its licensed facility ~~Malt beverages and other~~
46 ~~alcoholic beverages manufactured by another licensed~~
47 ~~manufacturer, including~~ any malt beverages that are owned in
48 whole or in part by the manufacturer but are brewed by another
49 manufacturer, ~~must be obtained through a licensed distributor~~
50 ~~that is not also a licensed manufacturer, a licensed broker or~~
51 ~~sales agent, or a licensed importer.~~

52 (d) A manufacturer possessing a vendor's license under this
53 subsection is not permitted to make deliveries under s.
54 561.57(1), except as provided in paragraph (g).

55 (f) A manufacturer licensed under this subsection that
56 produces less than 250,000 barrels per year is not subject to
57 the requirements of s. 563.022.

58 (g) Notwithstanding any other provision of the Beverage

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59 Law, a manufacturer possessing a vendor's license under this
60 subsection may sell, transport, and deliver to a vendor, from
61 the manufacturer's licensed premises, malt beverages that have
62 been manufactured by the manufacturer. A manufacturer acting
63 pursuant to this paragraph shall comply with the requirements of
64 ss. 561.42 and 561.423, as applicable, to the same extent as if
65 the manufacturer were a distributor.

66 1. The authority provided in this paragraph is limited to
67 the sale, transport, and delivery of individual containers,
68 kegs, or other bulk packages but does not include the sale,
69 transport, and delivery of growlers, as described in s.
70 563.06(7).

71 2. Any delivery made pursuant to this paragraph is subject
72 to s. 561.57(2).

73 3. This paragraph does not apply to a manufacturer that has
74 a total production volume of more than 250,000 barrels of malt
75 beverages per year.

76 4. A manufacturer that has an existing distribution
77 agreement with a distributor pursuant to s. 563.022 must get
78 permission in writing from the distributor before making a
79 delivery of more than four kegs to any licensed vendor in the
80 distributor's sales territory.

81 (3) (a) Notwithstanding other provisions of the Beverage
82 Law, any vendor licensed in this state may be licensed as a
83 manufacturer of malt beverages upon a finding by the division
84 that:

85 1. The vendor will be engaged in brewing malt beverages at
86 a single location and in an amount which will not exceed 5,000
87 barrels of malt beverages ~~10,000 kegs~~ per year. For purposes of

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88 this section ~~subsection~~, the term "barrel" ~~"keg"~~ means 31 15.5
89 gallons.

90 2. The malt beverages so brewed will be sold to consumers
91 for consumption on the vendor's licensed premises or on other
92 ~~contiguous~~ licensed premises owned by the vendor.

93 Section 2. Paragraph (d) of subsection (14) of section
94 563.022, Florida Statutes, is amended, and subsection (22) is
95 added to that section, to read:

96 563.022 Relations between beer distributors and
97 manufacturers.—

98 (14) MANUFACTURER; PROHIBITED INTERESTS.—

99 (d) Nothing in the Beverage Law shall be construed to
100 prohibit a manufacturer from shipping products to or between its
101 breweries, or between its breweries and the licensed premises of
102 a vendor pursuant to s. 561.221(2)(g), without a distributor's
103 license.

104 (22) TERMINATION BASED ON SALES.—Notwithstanding this
105 section, a manufacturer of malt beverages may terminate a
106 contract with a distributor upon no less than 120 days' written
107 notice if the sales of products to the distributor by the
108 manufacturer do not exceed 10 percent of the distributor's total
109 alcoholic beverage sales for the previous calendar year.

110 Section 3. Subsections (1) and (2) of section 561.411,
111 Florida Statutes, are amended to read:

112 561.411 Qualifications for distributors.—No distributor's
113 license shall be issued to or held by any person or business
114 which does not meet and maintain the following qualifications
115 with respect to its warehouse inventory and sales.

116 (1) The distributor must maintain warehouse space which is

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117 either owned or leased by the distributor, or dedicated to the
118 distributor's use in a public warehouse, which is sufficient to
119 store at one time:

120 (a) An inventory of alcoholic beverages which is equal to
121 at least 5 ~~10~~ percent of the distributor's annual case sales to
122 licensed vendors within this state or to licensed vendors within
123 the malt beverage distributor's exclusive sales territory; or

124 (b) An inventory for which the cost of acquisition is not
125 less than \$10,000 ~~\$100,000~~.

126 (2) The distributor must maintain at all times, in a
127 warehouse which is either owned or leased by the distributor or
128 in public warehouse space dedicated to the distributor's use, an
129 inventory of alcoholic beverages:

130 (a) Which consists of not less than 5 percent of the
131 distributor's annual sales to licensed vendors within this state
132 or within the malt beverage distributor's exclusive sales
133 territory; or

134 (b) For which the cost of acquisition is not less than
135 \$10,000 ~~\$100,000~~. The inventory required herein shall be owned
136 by the distributor, not held on consignment, and not acquired
137 pursuant to a prior agreement to sell it to a specific licensee
138 or licensees.

139 (c) For purposes of calculating inventory or percentage of
140 annual sales as required by paragraphs (a) and (b), the
141 calculation must ~~shall~~ not include private label inventory whose
142 label is owned by a vendor.

143 Section 4. Subsection (1) of section 561.5101, Florida
144 Statutes, is amended to read:

145 561.5101 Come-to-rest requirement; exceptions; penalties.-

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146 (1) For purposes of inspection and tax-revenue control, all
147 malt beverages, except those manufactured and sold by the same
148 licensee, pursuant to s. 561.221(2) or (3), must come to rest at
149 the licensed premises of an alcoholic beverage wholesaler in
150 this state before being sold to a vendor by the wholesaler. The
151 prohibition contained in this subsection does not apply to the
152 shipment of malt beverages commonly known as private labels. The
153 prohibition contained in this subsection shall not prevent a
154 manufacturer from shipping malt beverages for storage at a
155 bonded warehouse facility, provided that such malt beverages are
156 distributed as provided in this subsection or to an out-of-state
157 entity. The prohibition contained in this subsection does not
158 apply to a malt beverage manufacturer that is licensed under s.
159 561.221(2) and that delivers malt beverages to a licensed vendor
160 pursuant to s. 561.221(2) (g).

161 Section 5. Subsections (1) and (2) of section 561.57,
162 Florida Statutes, are amended to read:

163 561.57 Deliveries by licensees.—

164 (1) Vendors shall be permitted to make deliveries away from
165 their places of business of sales actually made at the licensed
166 place of business; provided, telephone, electronic, or mail
167 orders received at a vendor's licensed place of business shall
168 be construed as a sale actually made at the vendor's licensed
169 place of business. Deliveries made by a vendor away from his or
170 her place of business may be made in vehicles that are owned or
171 leased by the vendor or in a third-party vehicle pursuant to a
172 contract with a third party with whom the vendor has contracted
173 to make deliveries, including, but not limited to, common
174 carriers. By acceptance of an alcoholic beverage license, the

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175 vendor agrees that vehicles that are owned or leased by the
176 vendor shall always be subject to inspection and search without
177 a search warrant for the purpose of ascertaining that all
178 provisions of the alcoholic beverage laws are complied with by
179 authorized employees of the division and also by sheriffs,
180 deputy sheriffs, and police officers during business hours or
181 other times the vehicle is being used to transport or deliver
182 alcoholic beverages. ~~A manufacturer possessing a vendor's~~
183 ~~license under s. 561.221(2) is not permitted to make deliveries~~
184 ~~under this subsection.~~

185 (2) Deliveries made by a manufacturer or distributor away
186 from his or her place of business may be made only in vehicles
187 that are owned or leased by the licensee. However, a
188 manufacturer authorized to make deliveries under s.
189 561.221(2) (g) may use a vehicle owned or leased by the
190 manufacturer or any person disclosed on a license application
191 filed by the manufacturer and approved by the division to make
192 such deliveries. By acceptance of an alcoholic beverage license
193 and the use of such vehicles, the licensee agrees that such
194 vehicle shall always be subject to be inspected and searched
195 without a search warrant, for the purpose of ascertaining that
196 all provisions of the alcoholic beverage laws are complied with,
197 by authorized employees of the division and also by sheriffs,
198 deputy sheriffs, and police officers during business hours or
199 other times the vehicle is being used to transport or deliver
200 alcoholic beverages.

201 Section 6. This act shall take effect July 1, 2019.