

By Senator Brandes

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1 A bill to be entitled
2 An act relating to the Beverage Law; amending s.
3 561.20, F.S.; authorizing certain food service
4 establishments to sell or deliver alcoholic beverages
5 for off-premises consumption if specified requirements
6 are met; amending s. 564.09, F.S.; revising provisions
7 that authorize a restaurant to allow patrons to remove
8 partially consumed bottles of wine from a restaurant
9 for off-premises consumption; authorizing certain
10 restaurants to sell or deliver wine in specified
11 packages under certain circumstances; amending s.
12 565.045, F.S.; revising requirements for the sale of
13 alcoholic beverages by certain vendors; authorizing
14 certain vendors to deliver specified alcoholic
15 beverages and liquor under certain circumstances;
16 reenacting ss. 316.1936(9) and 564.05, F.S., relating
17 to the possession of open containers of alcoholic
18 beverages in vehicles and the limitation of size of
19 individual wine containers, respectively, to
20 incorporate the amendments made to s. 564.09, F.S., in
21 references thereto; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (a) of subsection (2) of section
26 561.20, Florida Statutes, is amended to read:

27 561.20 Limitation upon number of licenses issued.—

28 (2) (a) The limitation of the number of licenses as provided
29 in this section does not prohibit the issuance of a special

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30 license to:

31 1. Any bona fide hotel, motel, or motor court of not fewer
32 than 80 guest rooms in any county having a population of less
33 than 50,000 residents, and of not fewer than 100 guest rooms in
34 any county having a population of 50,000 residents or greater;
35 or any bona fide hotel or motel located in a historic structure,
36 as defined in s. 561.01(21), with fewer than 100 guest rooms
37 which derives at least 51 percent of its gross revenue from the
38 rental of hotel or motel rooms, which is licensed as a public
39 lodging establishment by the Division of Hotels and Restaurants;
40 provided, however, that a bona fide hotel or motel with no fewer
41 than 10 and no more than 25 guest rooms which is a historic
42 structure, as defined in s. 561.01(21), in a municipality that
43 on the effective date of this act has a population, according to
44 the University of Florida's Bureau of Economic and Business
45 Research Estimates of Population for 1998, of no fewer than
46 25,000 and no more than 35,000 residents and that is within a
47 constitutionally chartered county may be issued a special
48 license. This special license shall allow the sale and
49 consumption of alcoholic beverages only on the licensed premises
50 of the hotel or motel. In addition, the hotel or motel must
51 derive at least 60 percent of its gross revenue from the rental
52 of hotel or motel rooms and the sale of food and nonalcoholic
53 beverages; provided that this subparagraph shall supersede local
54 laws requiring a greater number of hotel rooms;

55 2. Any condominium accommodation of which no fewer than 100
56 condominium units are wholly rentable to transients and which is
57 licensed under chapter 509, except that the license shall be
58 issued only to the person or corporation that operates the hotel

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59 or motel operation and not to the association of condominium
60 owners;

61 3. Any condominium accommodation of which no fewer than 50
62 condominium units are wholly rentable to transients, which is
63 licensed under chapter 509, and which is located in any county
64 having home rule under s. 10 or s. 11, Art. VIII of the State
65 Constitution of 1885, as amended, and incorporated by reference
66 in s. 6(e), Art. VIII of the State Constitution, except that the
67 license shall be issued only to the person or corporation that
68 operates the hotel or motel operation and not to the association
69 of condominium owners;

70 4. A food service establishment that has 2,500 square feet
71 of service area, is equipped to serve meals to 150 persons at
72 one time, and derives at least 51 percent of its gross food and
73 beverage revenue from the sale of food and nonalcoholic
74 beverages during the first 60-day operating period and each 12-
75 month operating period thereafter. A licensee under this
76 subparagraph may sell or deliver alcoholic beverages by the
77 package in a sealed container for off-premises consumption if
78 the sale or delivery is accompanied by the sale of food within
79 the same order. Such authorized sale or delivery includes wine-
80 based and liquor-based beverages prepared by the licensee and
81 packaged in a container sealed by the licensee. Any sale or
82 delivery of malt beverages must comply with the container size,
83 labeling, and filling requirements imposed under s. 563.06. Any
84 delivery of an alcoholic beverage under this subparagraph must
85 comply with s. 561.57. A food service establishment granted a
86 special license on or after January 1, 1958, pursuant to general
87 or special law may not ~~operate as a package store and may not~~

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88 sell intoxicating beverages under such license after the hours
89 of serving or consumption of food have elapsed. Failure by a
90 licensee to meet the required percentage of food and
91 nonalcoholic beverage gross revenues during the covered
92 operating period shall result in revocation of the license or
93 denial of the pending license application. A licensee whose
94 license is revoked or an applicant whose pending application is
95 denied, or any person required to qualify on the special license
96 application, is ineligible to have any interest in a subsequent
97 application for such a license for a period of 120 days after
98 the date of the final denial or revocation;

99 5. Any caterer, deriving at least 51 percent of its gross
100 food and beverage revenue from the sale of food and nonalcoholic
101 beverages at each catered event, licensed by the Division of
102 Hotels and Restaurants under chapter 509. This subparagraph does
103 not apply to a culinary education program, as defined in s.
104 381.0072(2), which is licensed as a public food service
105 establishment by the Division of Hotels and Restaurants and
106 provides catering services. Notwithstanding any law to the
107 contrary, a licensee under this subparagraph shall sell or serve
108 alcoholic beverages only for consumption on the premises of a
109 catered event at which the licensee is also providing prepared
110 food, and shall prominently display its license at any catered
111 event at which the caterer is selling or serving alcoholic
112 beverages. A licensee under this subparagraph shall purchase all
113 alcoholic beverages it sells or serves at a catered event from a
114 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
115 under s. 565.02(1) subject to the limitation imposed in
116 subsection (1), as appropriate. A licensee under this

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117 subparagraph may not store any alcoholic beverages to be sold or
118 served at a catered event. Any alcoholic beverages purchased by
119 a licensee under this subparagraph for a catered event that are
120 not used at that event must remain with the customer; provided
121 that if the vendor accepts unopened alcoholic beverages, the
122 licensee may return such alcoholic beverages to the vendor for a
123 credit or reimbursement. Regardless of the county or counties in
124 which the licensee operates, a licensee under this subparagraph
125 shall pay the annual state license tax set forth in s.
126 565.02(1)(b). A licensee under this subparagraph must maintain
127 for a period of 3 years all records and receipts for each
128 catered event, including all contracts, customers' names, event
129 locations, event dates, food purchases and sales, alcoholic
130 beverage purchases and sales, nonalcoholic beverage purchases
131 and sales, and any other records required by the department by
132 rule to demonstrate compliance with the requirements of this
133 subparagraph. Notwithstanding any law to the contrary, any
134 vendor licensed under s. 565.02(1) subject to the limitation
135 imposed in subsection (1), may, without any additional licensure
136 under this subparagraph, serve or sell alcoholic beverages for
137 consumption on the premises of a catered event at which prepared
138 food is provided by a caterer licensed under chapter 509. If a
139 licensee under this subparagraph also possesses any other
140 license under the Beverage Law, the license issued under this
141 subparagraph shall not authorize the holder to conduct
142 activities on the premises to which the other license or
143 licenses apply that would otherwise be prohibited by the terms
144 of that license or the Beverage Law. Nothing in this section
145 shall permit the licensee to conduct activities that are

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146 otherwise prohibited by the Beverage Law or local law. The
147 Division of Alcoholic Beverages and Tobacco is hereby authorized
148 to adopt rules to administer the license created in this
149 subparagraph, to include rules governing licensure,
150 recordkeeping, and enforcement. The first \$300,000 in fees
151 collected by the division each fiscal year pursuant to this
152 subparagraph shall be deposited in the Department of Children
153 and Families' Operations and Maintenance Trust Fund to be used
154 only for alcohol and drug abuse education, treatment, and
155 prevention programs. The remainder of the fees collected shall
156 be deposited into the Hotel and Restaurant Trust Fund created
157 pursuant to s. 509.072; or

158 6. A culinary education program as defined in s.
159 381.0072(2) which is licensed as a public food service
160 establishment by the Division of Hotels and Restaurants.

161 a. This special license shall allow the sale and
162 consumption of alcoholic beverages on the licensed premises of
163 the culinary education program. The culinary education program
164 shall specify designated areas in the facility where the
165 alcoholic beverages may be consumed at the time of application.
166 Alcoholic beverages sold for consumption on the premises may be
167 consumed only in areas designated pursuant to s. 561.01(11) and
168 may not be removed from the designated area. Such license shall
169 be applicable only in and for designated areas used by the
170 culinary education program.

171 b. If the culinary education program provides catering
172 services, this special license shall also allow the sale and
173 consumption of alcoholic beverages on the premises of a catered
174 event at which the licensee is also providing prepared food. A

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175 culinary education program that provides catering services is
176 not required to derive at least 51 percent of its gross revenue
177 from the sale of food and nonalcoholic beverages.

178 Notwithstanding any law to the contrary, a licensee that
179 provides catering services under this sub-subparagraph shall
180 prominently display its beverage license at any catered event at
181 which the caterer is selling or serving alcoholic beverages.
182 Regardless of the county or counties in which the licensee
183 operates, a licensee under this sub-subparagraph shall pay the
184 annual state license tax set forth in s. 565.02(1)(b). A
185 licensee under this sub-subparagraph must maintain for a period
186 of 3 years all records required by the department by rule to
187 demonstrate compliance with the requirements of this sub-
188 subparagraph.

189 c. If a licensee under this subparagraph also possesses any
190 other license under the Beverage Law, the license issued under
191 this subparagraph does not authorize the holder to conduct
192 activities on the premises to which the other license or
193 licenses apply that would otherwise be prohibited by the terms
194 of that license or the Beverage Law. Nothing in this
195 subparagraph shall permit the licensee to conduct activities
196 that are otherwise prohibited by the Beverage Law or local law.
197 Any culinary education program that holds a license to sell
198 alcoholic beverages shall comply with the age requirements set
199 forth in ss. 562.11(4), 562.111(2), and 562.13.

200 d. The Division of Alcoholic Beverages and Tobacco may
201 adopt rules to administer the license created in this
202 subparagraph, to include rules governing licensure,
203 recordkeeping, and enforcement.

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204 e. A license issued pursuant to this subparagraph does not
205 permit the licensee to sell alcoholic beverages by the package
206 for off-premises consumption.

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208 However, any license heretofore issued to any such hotel, motel,
209 motor court, or restaurant or hereafter issued to any such
210 hotel, motel, or motor court, including a condominium
211 accommodation, under the general law shall not be moved to a new
212 location, such license being valid only on the premises of such
213 hotel, motel, motor court, or restaurant. Licenses issued to
214 hotels, motels, motor courts, or restaurants under the general
215 law and held by such hotels, motels, motor courts, or
216 restaurants on May 24, 1947, shall be counted in the quota
217 limitation contained in subsection (1). Any license issued for
218 any hotel, motel, or motor court under this law shall be issued
219 only to the owner of the hotel, motel, or motor court or, in the
220 event the hotel, motel, or motor court is leased, to the lessee
221 of the hotel, motel, or motor court; and the license shall
222 remain in the name of the owner or lessee so long as the license
223 is in existence. Any special license now in existence heretofore
224 issued under this law cannot be renewed except in the name of
225 the owner of the hotel, motel, motor court, or restaurant or, in
226 the event the hotel, motel, motor court, or restaurant is
227 leased, in the name of the lessee of the hotel, motel, motor
228 court, or restaurant in which the license is located and must
229 remain in the name of the owner or lessee so long as the license
230 is in existence. Any license issued under this section shall be
231 marked "Special," and nothing herein provided shall limit,
232 restrict, or prevent the issuance of a special license for any

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233 restaurant or motel which shall hereafter meet the requirements
234 of the law existing immediately prior to the effective date of
235 this act, if construction of such restaurant has commenced prior
236 to the effective date of this act and is completed within 30
237 days thereafter, or if an application is on file for such
238 special license at the time this act takes effect; and any such
239 licenses issued under this proviso may be annually renewed as
240 now provided by law. Nothing herein prevents an application for
241 transfer of a license to a bona fide purchaser of any hotel,
242 motel, motor court, or restaurant by the purchaser of such
243 facility or the transfer of such license pursuant to law.

244 Section 2. Section 564.09, Florida Statutes, is amended to
245 read:

246 564.09 Restaurants; off-premises consumption of wine.-

247 (1) Notwithstanding any other provision of law, a
248 restaurant licensed to sell wine on the premises may permit a
249 patron to remove one unsealed bottle of wine for consumption off
250 the premises if the patron has purchased a ~~full-course~~ meal
251 ~~consisting of a salad or vegetable, entree, a beverage, and~~
252 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
253 ~~meal~~ on the restaurant premises. A partially consumed bottle of
254 wine that is to be removed from the premises must be securely
255 resealed by the licensee or its employees before removal from
256 the premises. The partially consumed bottle of wine shall be
257 placed in a bag or other container that is secured in such a
258 manner that it is visibly apparent if the container has been
259 subsequently opened or tampered with, and a dated receipt for
260 the bottle of wine and ~~full-course~~ meal shall be provided by the
261 licensee and attached to the container. If transported in a

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262 motor vehicle, the container with the resealed bottle of wine
263 must be placed in a locked glove compartment, a locked trunk, or
264 the area behind the last upright seat of a motor vehicle that is
265 not equipped with a trunk.

266 (2) Notwithstanding any other provision of law, a
267 restaurant licensed to sell wine for consumption on the premises
268 may sell or deliver a manufacturer-sealed bottle of wine, or an
269 individual serving of wine or wine-based beverage prepared by
270 the licensee, for off-premises consumption if the wine is
271 delivered in a container sealed by the licensee and the sale or
272 delivery is accompanied by the purchase of a meal within the
273 same order. Any delivery made under this subsection must comply
274 with s. 561.57.

275 Section 3. Subsection (1) of section 565.045, Florida
276 Statutes, is amended to read:

277 565.045 Regulations for consumption on premises; penalty;
278 exemptions.-

279 (1) Vendors licensed under s. 565.02(1)(b)-(f):

280 (a) Shall provide seats for the use of their customers;

281 (b) ~~Such vendors~~ May sell or deliver alcoholic beverages
282 by the drink or in manufacturer-sealed ~~sealed~~ containers for
283 consumption on or off the premises where sold; and

284 (c) May sell or deliver an individual serving of liquor or
285 a liquor-based beverage prepared by the licensee for off-
286 premises consumption if the liquor or liquor-based beverage is
287 in a container sealed by the licensee.

288
289 All sales or deliveries of alcoholic beverages made under
290 paragraph (c) for off-premises consumption must be accompanied

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291 by the sale of food within the same order.

292 Section 4. For the purpose of incorporating the amendment
293 made by this act to section 564.09, Florida Statutes, in a
294 reference thereto, subsection (9) of section 316.1936, Florida
295 Statutes, is reenacted to read:

296 316.1936 Possession of open containers of alcoholic
297 beverages in vehicles prohibited; penalties.—

298 (9) A bottle of wine that has been resealed and is
299 transported pursuant to s. 564.09 is not an open container under
300 the provisions of this section.

301 Section 5. For the purpose of incorporating the amendment
302 made by this act to section 564.09, Florida Statutes, in a
303 reference thereto, section 564.05, Florida Statutes, is
304 reenacted to read:

305 564.05 Limitation of size of individual wine containers;
306 penalty.—It is unlawful for a person to sell within this state
307 wine in an individual container holding more than 1 gallon of
308 such wine, unless such wine is in a reusable container holding
309 5.16 gallons. However, qualified distributors and manufacturers
310 may sell wine to other qualified distributors or manufacturers
311 in any size container. Except as provided in s. 564.09, wine
312 sold or offered for sale by a licensed vendor to be consumed off
313 the premises shall be in the unopened original container. A
314 person convicted of a violation of this section commits a
315 misdemeanor of the second degree, punishable as provided in s.
316 775.082 or s. 775.083.

317 Section 6. This act shall take effect July 1, 2021.