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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/RM	.	Floor: C
04/28/2021 11:06 AM	.	04/28/2021 08:43 PM
	.	

Senator Bradley moved the following:

1 **Senate Amendment to House Amendment (853337) (with title**
2 **amendment)**

3
4 Delete lines 7 - 272

5 and insert:

6 is accompanied by the sale of food within the same order. Such
7 authorized sale or delivery includes wine-based and liquor-based
8 beverages prepared by the licensee or its employee and packaged
9 in a container sealed by the licensee or its employee. This
10 subparagraph may not be construed to authorize public food
11 service establishments licensed under this subparagraph to sell



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12 a bottle of distilled spirits sealed by a manufacturer. Any sale
13 or delivery of malt beverages must comply with the container
14 size, labeling, and filling requirements imposed under s.
15 563.06. Any delivery of an alcoholic beverage under this
16 subparagraph must comply with s. 561.57. An alcoholic beverage
17 drink prepared by the vendor and sold or delivered for
18 consumption off the premises must be placed in a container
19 securely sealed by the licensee or its employees with an
20 unbroken seal that prevents the beverage from being immediately
21 consumed before removal from the premises. Such alcoholic
22 beverage also must be placed in a bag or other container that is
23 secured in such a manner that it is visibly apparent if the
24 container has been subsequently opened or tampered with, and a
25 dated receipt for the alcoholic beverage and food must be
26 provided by the licensee and attached to the bag or container.
27 If transported in a motor vehicle, an alcoholic beverage that is
28 not in a container sealed by the manufacturer must be placed in
29 a locked compartment, a locked trunk, or the area behind the
30 last upright seat of a motor vehicle. It is a violation of the
31 prohibition in s. 562.11 to allow any person under the age of 21
32 to deliver alcoholic beverages on behalf of a vendor. The vendor
33 or the agent or employee of the vendor must verify the age of
34 the person making the delivery of the alcoholic beverage before
35 allowing any person to take possession of an alcoholic beverage
36 for the purpose of making a delivery on behalf of a vendor under
37 this section. A food service establishment granted a special
38 license on or after January 1, 1958, pursuant to general or
39 special law may not operate as a package store and may not sell
40 intoxicating beverages under such license after the hours of



41 serving or consumption of food have elapsed. Failure by a
42 licensee to meet the required percentage of food and
43 nonalcoholic beverage gross revenues during the covered
44 operating period shall result in revocation of the license or
45 denial of the pending license application. A licensee whose
46 license is revoked or an applicant whose pending application is
47 denied, or any person required to qualify on the special license
48 application, is ineligible to have any interest in a subsequent
49 application for such a license for a period of 120 days after
50 the date of the final denial or revocation;

51 5. Any caterer, deriving at least 51 percent of its gross
52 food and beverage revenue from the sale of food and nonalcoholic
53 beverages at each catered event, licensed by the Division of
54 Hotels and Restaurants under chapter 509. This subparagraph does
55 not apply to a culinary education program, as defined in s.
56 381.0072(2), which is licensed as a public food service
57 establishment by the Division of Hotels and Restaurants and
58 provides catering services. Notwithstanding any law to the
59 contrary, a licensee under this subparagraph shall sell or serve
60 alcoholic beverages only for consumption on the premises of a
61 catered event at which the licensee is also providing prepared
62 food, and shall prominently display its license at any catered
63 event at which the caterer is selling or serving alcoholic
64 beverages. A licensee under this subparagraph shall purchase all
65 alcoholic beverages it sells or serves at a catered event from a
66 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
67 under s. 565.02(1) subject to the limitation imposed in
68 subsection (1), as appropriate. A licensee under this
69 subparagraph may not store any alcoholic beverages to be sold or



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70 served at a catered event. Any alcoholic beverages purchased by
71 a licensee under this subparagraph for a catered event that are
72 not used at that event must remain with the customer; provided
73 that if the vendor accepts unopened alcoholic beverages, the
74 licensee may return such alcoholic beverages to the vendor for a
75 credit or reimbursement. Regardless of the county or counties in
76 which the licensee operates, a licensee under this subparagraph
77 shall pay the annual state license tax set forth in s.
78 565.02(1)(b). A licensee under this subparagraph must maintain
79 for a period of 3 years all records and receipts for each
80 catered event, including all contracts, customers' names, event
81 locations, event dates, food purchases and sales, alcoholic
82 beverage purchases and sales, nonalcoholic beverage purchases
83 and sales, and any other records required by the department by
84 rule to demonstrate compliance with the requirements of this
85 subparagraph. Notwithstanding any law to the contrary, any
86 vendor licensed under s. 565.02(1) subject to the limitation
87 imposed in subsection (1), may, without any additional licensure
88 under this subparagraph, serve or sell alcoholic beverages for
89 consumption on the premises of a catered event at which prepared
90 food is provided by a caterer licensed under chapter 509. If a
91 licensee under this subparagraph also possesses any other
92 license under the Beverage Law, the license issued under this
93 subparagraph may ~~shall~~ not authorize the holder to conduct
94 activities on the premises to which the other license or
95 licenses apply that would otherwise be prohibited by the terms
96 of that license or the Beverage Law. ~~Nothing in~~ This section
97 does not ~~shall~~ permit the licensee to conduct activities that
98 are otherwise prohibited by the Beverage Law or local law. The



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99 Division of Alcoholic Beverages and Tobacco is hereby authorized
100 to adopt rules to administer the license created in this
101 subparagraph, to include rules governing licensure,
102 recordkeeping, and enforcement. The first \$300,000 in fees
103 collected by the division each fiscal year pursuant to this
104 subparagraph shall be deposited in the Department of Children
105 and Families' Operations and Maintenance Trust Fund to be used
106 only for alcohol and drug abuse education, treatment, and
107 prevention programs. The remainder of the fees collected shall
108 be deposited into the Hotel and Restaurant Trust Fund created
109 pursuant to s. 509.072; or

110 6. A culinary education program as defined in s.
111 381.0072(2) which is licensed as a public food service
112 establishment by the Division of Hotels and Restaurants.

113 a. This special license shall allow the sale and
114 consumption of alcoholic beverages on the licensed premises of
115 the culinary education program. The culinary education program
116 shall specify designated areas in the facility where the
117 alcoholic beverages may be consumed at the time of application.
118 Alcoholic beverages sold for consumption on the premises may be
119 consumed only in areas designated under ~~pursuant to~~ s.
120 561.01(11) and may not be removed from the designated area. Such
121 license shall be applicable only in and for designated areas
122 used by the culinary education program.

123 b. If the culinary education program provides catering
124 services, this special license shall also allow the sale and
125 consumption of alcoholic beverages on the premises of a catered
126 event at which the licensee is also providing prepared food. A
127 culinary education program that provides catering services is



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128 not required to derive at least 51 percent of its gross revenue
129 from the sale of food and nonalcoholic beverages.
130 Notwithstanding any law to the contrary, a licensee that
131 provides catering services under this sub-subparagraph shall
132 prominently display its beverage license at any catered event at
133 which the caterer is selling or serving alcoholic beverages.
134 Regardless of the county or counties in which the licensee
135 operates, a licensee under this sub-subparagraph shall pay the
136 annual state license tax set forth in s. 565.02(1)(b). A
137 licensee under this sub-subparagraph must maintain for a period
138 of 3 years all records required by the department by rule to
139 demonstrate compliance with the requirements of this sub-
140 subparagraph.

141 c. If a licensee under this subparagraph also possesses any
142 other license under the Beverage Law, the license issued under
143 this subparagraph does not authorize the holder to conduct
144 activities on the premises to which the other license or
145 licenses apply that would otherwise be prohibited by the terms
146 of that license or the Beverage Law. ~~Nothing in This~~
147 subparagraph does not shall permit the licensee to conduct
148 activities that are otherwise prohibited by the Beverage Law or
149 local law. Any culinary education program that holds a license
150 to sell alcoholic beverages shall comply with the age
151 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

152 d. The Division of Alcoholic Beverages and Tobacco may
153 adopt rules to administer the license created in this
154 subparagraph, to include rules governing licensure,
155 recordkeeping, and enforcement.

156 e. A license issued pursuant to this subparagraph does not



157 permit the licensee to sell alcoholic beverages by the package
158 for off-premises consumption.
159
160 However, any license heretofore issued to any such hotel, motel,
161 motor court, or restaurant or hereafter issued to any such
162 hotel, motel, or motor court, including a condominium
163 accommodation, under the general law may ~~shall~~ not be moved to a
164 new location, such license being valid only on the premises of
165 such hotel, motel, motor court, or restaurant. Licenses issued
166 to hotels, motels, motor courts, or restaurants under the
167 general law and held by such hotels, motels, motor courts, or
168 restaurants on May 24, 1947, shall be counted in the quota
169 limitation contained in subsection (1). Any license issued for
170 any hotel, motel, or motor court under this law shall be issued
171 only to the owner of the hotel, motel, or motor court or, in the
172 event the hotel, motel, or motor court is leased, to the lessee
173 of the hotel, motel, or motor court; and the license shall
174 remain in the name of the owner or lessee so long as the license
175 is in existence. Any special license now in existence heretofore
176 issued under this law cannot be renewed except in the name of
177 the owner of the hotel, motel, motor court, or restaurant or, in
178 the event the hotel, motel, motor court, or restaurant is
179 leased, in the name of the lessee of the hotel, motel, motor
180 court, or restaurant in which the license is located and must
181 remain in the name of the owner or lessee so long as the license
182 is in existence. Any license issued under this section shall be
183 marked "Special," and nothing herein provided shall limit,
184 restrict, or prevent the issuance of a special license for any
185 restaurant or motel which shall hereafter meet the requirements



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186 of the law existing immediately before ~~prior to~~ the effective
187 date of this act, if construction of such restaurant has
188 commenced before ~~prior to~~ the effective date of this act and is
189 completed within 30 days thereafter, or if an application is on
190 file for such special license at the time this act takes effect;
191 and any such licenses issued under this proviso may be annually
192 renewed as now provided by law. Nothing herein prevents an
193 application for transfer of a license to a bona fide purchaser
194 of any hotel, motel, motor court, or restaurant by the purchaser
195 of such facility or the transfer of such license pursuant to
196 law.

197 Section 2. Section 564.09, Florida Statutes, is amended to
198 read:

199 564.09 Restaurants; off-premises consumption of wine.-
200 Notwithstanding any other provision of law, a restaurant
201 licensed to sell wine on the premises may permit a patron to
202 remove one unsealed bottle of wine for consumption off the
203 premises if the patron has purchased a ~~full-course~~ meal
204 ~~consisting of a salad or vegetable, entree, a beverage, and~~
205 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
206 ~~meal~~ on the restaurant premises. A partially consumed bottle of
207 wine that is to be removed from the premises must be securely
208 resealed by the licensee or its employees before removal from
209 the premises. The partially consumed bottle of wine shall be
210 placed in a bag or other container that is secured in such a
211 manner that it is visibly apparent if the container has been
212 subsequently opened or tampered with, and a dated receipt for
213 the bottle of wine and ~~full-course~~ meal shall be provided by the
214 licensee and attached to the container. If transported in a



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215 motor vehicle, the container with the resealed bottle of wine
216 must be placed in a locked glove compartment, a locked trunk, or
217 the area behind the last upright seat of a motor vehicle that is
218 not equipped with a trunk.

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

221 565.045 Regulations for consumption on premises; penalty;
222 exemptions.—

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

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

225 (b) ~~Such vendors~~ May sell or deliver alcoholic beverages
226 by the drink or in sealed containers for consumption on or off
227 the premises where sold; and

228 (c) May sell or deliver alcoholic beverages prepared by the
229 licensee for off-premises consumption if the alcoholic beverage
230 is in a container sealed by the licensee. All sales or
231 deliveries of alcoholic beverages made pursuant to this
232 paragraph must satisfy the following requirements:

233 1. The vendor must be licensed as a public food service
234 establishment under chapter 509;

235 2. The sale or delivery must be accompanied by the sale of
236 food within the same order;

237 3. The charge for the sale of food and nonalcoholic
238 beverages must be at least 40 percent of the total charge for
239 the order, excluding the charge for any manufacturer-sealed
240 containers of alcoholic beverages included in the order; and

241 4. Sales and deliveries of the alcoholic beverages may not
242 occur after the vendor ceases preparing food on the licensed
243 premises for the day or after midnight, whichever is earlier.



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245 The requirement in subparagraph 3. does not apply to vendors
246 licensed under s. 561.20(2)(a)4.

247 (d) An alcoholic beverage drink prepared by the vendor and
248 sold or delivered for consumption off the premises under
249 paragraph (c) must be placed in a container securely sealed by
250 the licensee or its employees with an unbroken seal that
251 prevents the beverage from being immediately consumed before
252 removal from the premises. Such alcoholic beverage also must be
253 placed in a bag or other container that is secured in such a
254 manner that it is visibly apparent if the container has been
255 subsequently opened or tampered with, and a dated receipt for
256 the alcoholic beverage and food must be provided by the licensee
257 and attached to the bag or container. If transported in a motor
258 vehicle, an alcoholic beverage that is not in a container sealed
259 by the manufacturer must be placed in a locked compartment, a
260 locked trunk, or the area behind the last upright seat of a
261 motor vehicle.

262 (e) Any delivery of an alcoholic beverage under this
263 section must comply with s. 561.57. It is a violation of the
264 prohibition in s. 562.11 to allow any person under the age of 21
265 to deliver alcoholic beverages on behalf of a vendor. The vendor
266 or the agent or employee of the vendor must verify the age of
267 the person making the delivery of the alcoholic beverage before
268 allowing any person to take possession of an alcoholic beverage
269 for the purpose of making a delivery on behalf of a vendor under
270 this section.

271 Section 4. Subsection (9) of section 316.1936, Florida
272 Statutes, is amended to read:



273 316.1936 Possession of open containers of alcoholic
274 beverages in vehicles prohibited; penalties.-

275 (9) An alcoholic beverage that has been sealed by a
276 licensee or the employee of a licensee and is transported
277 pursuant to s. 564.09, s. 561.20(2)(a)4., or s. 565.045(1) A
278 ~~bottle of wine that has been resealed and is transported~~
279 ~~pursuant to s. 564.09~~ is not an open container under the
280 provisions of this section.

281
282 ===== T I T L E A M E N D M E N T =====

283 And the title is amended as follows:

284 Delete lines 277 - 298
285 and insert:

286 circumstances; providing requirements for such
287 deliveries; requiring a vendor or the agent or
288 employee of the vendor to verify the age of the person
289 making the delivery; amending s. 564.09, F.S.;

290 revising provisions that authorize a restaurant to
291 allow patrons to remove partially consumed bottles of
292 wine from a restaurant for off-premises consumption;

293 amending s. 565.045, F.S.; revising requirements for
294 the sale of alcoholic beverages by certain vendors;

295 authorizing certain vendors to deliver specified
296 alcoholic beverages under certain circumstances;

297 providing requirements for such deliveries;

298 prohibiting any person under the age of 21 from
299 delivering alcoholic beverages on behalf of a vendor;

300 requiring a vendor or the agent or employee of the
301 vendor to verify the age of the person making the



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302 delivery; amending s. 316.1936, F.S.; specifying that
303 certain alcoholic beverages are not open containers
304 for the purposes of the prohibition on possessing open
305 containers of alcoholic beverages in vehicles;
306 providing an effective date.