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LEGISLATIVE ACTION

Senate

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House

The Committee on Regulated Industries (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 61 - 224

and insert:

subparagraph may sell or deliver alcoholic beverages for off-
premises consumption pursuant to s. 561.575. A food service
establishment granted a special license on or after January 1,
1958, pursuant to general or special law may not operate as a
package store except as provided in s. 561.575 and may not sell
intoxicating beverages under such license after the hours of



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11 serving or consumption of food have elapsed. Failure by a
12 licensee to meet the required percentage of food and
13 nonalcoholic beverage gross revenues during the covered
14 operating period shall result in revocation of the license or
15 denial of the pending license application. A licensee whose
16 license is revoked or an applicant whose pending application is
17 denied, or any person required to qualify on the special license
18 application, is ineligible to have any interest in a subsequent
19 application for such a license for a period of 120 days after
20 the date of the final denial or revocation;

21 5. Any caterer, deriving at least 51 percent of its gross
22 food and beverage revenue from the sale of food and nonalcoholic
23 beverages at each catered event, licensed by the Division of
24 Hotels and Restaurants under chapter 509. This subparagraph does
25 not apply to a culinary education program, as defined in s.
26 381.0072(2), which is licensed as a public food service
27 establishment by the Division of Hotels and Restaurants and
28 provides catering services. Notwithstanding any law to the
29 contrary, a licensee under this subparagraph shall sell or serve
30 alcoholic beverages only for consumption on the premises of a
31 catered event at which the licensee is also providing prepared
32 food, and shall prominently display its license at any catered
33 event at which the caterer is selling or serving alcoholic
34 beverages. A licensee under this subparagraph shall purchase all
35 alcoholic beverages it sells or serves at a catered event from a
36 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
37 under s. 565.02(1) subject to the limitation imposed in
38 subsection (1), as appropriate. A licensee under this
39 subparagraph may not store any alcoholic beverages to be sold or



40 served at a catered event. Any alcoholic beverages purchased by
41 a licensee under this subparagraph for a catered event that are
42 not used at that event must remain with the customer; provided
43 that if the vendor accepts unopened alcoholic beverages, the
44 licensee may return such alcoholic beverages to the vendor for a
45 credit or reimbursement. Regardless of the county or counties in
46 which the licensee operates, a licensee under this subparagraph
47 shall pay the annual state license tax set forth in s.
48 565.02(1)(b). A licensee under this subparagraph must maintain
49 for a period of 3 years all records and receipts for each
50 catered event, including all contracts, customers' names, event
51 locations, event dates, food purchases and sales, alcoholic
52 beverage purchases and sales, nonalcoholic beverage purchases
53 and sales, and any other records required by the department by
54 rule to demonstrate compliance with the requirements of this
55 subparagraph. Notwithstanding any law to the contrary, any
56 vendor licensed under s. 565.02(1) subject to the limitation
57 imposed in subsection (1), may, without any additional licensure
58 under this subparagraph, serve or sell alcoholic beverages for
59 consumption on the premises of a catered event at which prepared
60 food is provided by a caterer licensed under chapter 509. If a
61 licensee under this subparagraph also possesses any other
62 license under the Beverage Law, the license issued under this
63 subparagraph shall not authorize the holder to conduct
64 activities on the premises to which the other license or
65 licenses apply that would otherwise be prohibited by the terms
66 of that license or the Beverage Law. Nothing in this section
67 shall permit the licensee to conduct activities that are
68 otherwise prohibited by the Beverage Law or local law. The



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69 Division of Alcoholic Beverages and Tobacco is hereby authorized
70 to adopt rules to administer the license created in this
71 subparagraph, to include rules governing licensure,
72 recordkeeping, and enforcement. The first \$300,000 in fees
73 collected by the division each fiscal year pursuant to this
74 subparagraph shall be deposited in the Department of Children
75 and Families' Operations and Maintenance Trust Fund to be used
76 only for alcohol and drug abuse education, treatment, and
77 prevention programs. The remainder of the fees collected shall
78 be deposited into the Hotel and Restaurant Trust Fund created
79 pursuant to s. 509.072; or

80 6. A culinary education program as defined in s.
81 381.0072(2) which is licensed as a public food service
82 establishment by the Division of Hotels and Restaurants.

83 a. This special license shall allow the sale and
84 consumption of alcoholic beverages on the licensed premises of
85 the culinary education program. The culinary education program
86 shall specify designated areas in the facility where the
87 alcoholic beverages may be consumed at the time of application.
88 Alcoholic beverages sold for consumption on the premises may be
89 consumed only in areas designated pursuant to s. 561.01(11) and
90 may not be removed from the designated area. Such license shall
91 be applicable only in and for designated areas used by the
92 culinary education program.

93 b. If the culinary education program provides catering
94 services, this special license shall also allow the sale and
95 consumption of alcoholic beverages on the premises of a catered
96 event at which the licensee is also providing prepared food. A
97 culinary education program that provides catering services is



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98 not required to derive at least 51 percent of its gross revenue
99 from the sale of food and nonalcoholic beverages.

100 Notwithstanding any law to the contrary, a licensee that
101 provides catering services under this sub-subparagraph shall
102 prominently display its beverage license at any catered event at
103 which the caterer is selling or serving alcoholic beverages.
104 Regardless of the county or counties in which the licensee
105 operates, a licensee under this sub-subparagraph shall pay the
106 annual state license tax set forth in s. 565.02(1)(b). A
107 licensee under this sub-subparagraph must maintain for a period
108 of 3 years all records required by the department by rule to
109 demonstrate compliance with the requirements of this sub-
110 subparagraph.

111 c. If a licensee under this subparagraph also possesses any
112 other license under the Beverage Law, the license issued under
113 this subparagraph does not authorize the holder to conduct
114 activities on the premises to which the other license or
115 licenses apply that would otherwise be prohibited by the terms
116 of that license or the Beverage Law. Nothing in this
117 subparagraph shall permit the licensee to conduct activities
118 that are otherwise prohibited by the Beverage Law or local law.
119 Any culinary education program that holds a license to sell
120 alcoholic beverages shall comply with the age requirements set
121 forth in ss. 562.11(4), 562.111(2), and 562.13.

122 d. The Division of Alcoholic Beverages and Tobacco may
123 adopt rules to administer the license created in this
124 subparagraph, to include rules governing licensure,
125 recordkeeping, and enforcement.

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



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127 permit the licensee to sell alcoholic beverages by the package
128 for off-premises consumption.
129
130 However, any license heretofore issued to any such hotel, motel,
131 motor court, or restaurant or hereafter issued to any such
132 hotel, motel, or motor court, including a condominium
133 accommodation, under the general law shall not be moved to a new
134 location, such license being valid only on the premises of such
135 hotel, motel, motor court, or restaurant. Licenses issued to
136 hotels, motels, motor courts, or restaurants under the general
137 law and held by such hotels, motels, motor courts, or
138 restaurants on May 24, 1947, shall be counted in the quota
139 limitation contained in subsection (1). Any license issued for
140 any hotel, motel, or motor court under this law shall be issued
141 only to the owner of the hotel, motel, or motor court or, in the
142 event the hotel, motel, or motor court is leased, to the lessee
143 of the hotel, motel, or motor court; and the license shall
144 remain in the name of the owner or lessee so long as the license
145 is in existence. Any special license now in existence heretofore
146 issued under this law cannot be renewed except in the name of
147 the owner of the hotel, motel, motor court, or restaurant or, in
148 the event the hotel, motel, motor court, or restaurant is
149 leased, in the name of the lessee of the hotel, motel, motor
150 court, or restaurant in which the license is located and must
151 remain in the name of the owner or lessee so long as the license
152 is in existence. Any license issued under this section shall be
153 marked "Special," and nothing herein provided shall limit,
154 restrict, or prevent the issuance of a special license for any
155 restaurant or motel which shall hereafter meet the requirements



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156 of the law existing immediately prior to the effective date of
157 this act, if construction of such restaurant has commenced prior
158 to the effective date of this act and is completed within 30
159 days thereafter, or if an application is on file for such
160 special license at the time this act takes effect; and any such
161 licenses issued under this proviso may be annually renewed as
162 now provided by law. Nothing herein prevents an application for
163 transfer of a license to a bona fide purchaser of any hotel,
164 motel, motor court, or restaurant by the purchaser of such
165 facility or the transfer of such license pursuant to law.

166 Section 2. Section 561.575, Florida Statutes, is created to
167 read:

168 561.575 Food service establishments; off-premises
169 consumption of alcoholic beverages.-

170 (1) Notwithstanding any other law, a public food service
171 establishment licensed under s. 561.20(2)(a)4. may sell
172 manufacturer-sealed containers of wine, containers of malt
173 beverages, or any alcoholic beverage drink prepared by the
174 vendor, including any wine-based and liquor-based drinks, sold
175 in containers sealed by the licensee or its employees for
176 consumption off of the licensed premises if accompanied by the
177 sale of food within the same order. The container for any
178 alcoholic beverage sold or delivered for consumption off the
179 premises pursuant to this section may not exceed 32 ounces. An
180 alcoholic beverage drink prepared by the vendor and sold or
181 delivered for consumption off the premises must be securely
182 sealed by the licensee or its employees with an unbroken seal
183 that prevents the beverage from being immediately consumed
184 before removal from the premises. Such alcoholic beverage also



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185 must be placed in a bag or other container that is secured in
186 such a manner that it is visibly apparent if the container has
187 been subsequently opened or tampered with, and a dated receipt
188 for the alcoholic beverage and meal must be provided by the
189 licensee and attached to the sealed container. If transported in
190 a motor vehicle, an alcoholic beverage that is not in a
191 container sealed by the manufacturer must be placed in a locked
192 glove compartment, a locked trunk, or the area behind the last
193 upright seat of a motor vehicle that is not equipped with a
194 trunk.

195 (2) Any sale or delivery of a malt beverage under this
196 section must comply with the container size, labeling, and
197 filling requirements under s. 563.06, except that such container
198 may not exceed 32 ounces.

199 (3) Any delivery of an alcoholic beverage under this
200 section must comply with s. 561.57.

201 (4) This section may not be construed to authorize public
202 food service establishments licensed under s. 561.20(2)(a)4. to
203 sell as package manufacturer-sealed containers of distilled
204 spirits.

205 Section 3. Subsection (9) of section 316.1936, Florida
206 Statutes, is amended to read:

207 316.1936 Possession of open containers of alcoholic
208 beverages in vehicles prohibited; penalties.—

209 (9) A bottle of wine that has been resealed and is
210 transported pursuant to s. 564.09 or an alcoholic beverage that
211 has been sealed by a licensee or the employee of a licensee and
212 is transported pursuant to s. 561.575 is not an open container
213 ~~under the provisions of this section.~~



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

And the title is amended as follows:

Delete lines 4 - 6

and insert:

establishments to sell or deliver certain alcoholic
beverages for off-premises consumption under certain
circumstances; creating s. 561.575, F.S.; providing
requirements for such establishments to sell alcoholic
beverages for off-premises consumption; requiring that
such alcoholic beverages be transported in a specified
manner; providing construction; amending s. 316.1936,
F.S.; specifying that certain alcoholic beverages sold
by such establishments are not open containers for the
purposes of the prohibition on possessing open
containers of alcoholic beverages in vehicles;
providing an effective date.