

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Tomkow offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 73-287 and insert:

5 subparagraph may sell or deliver alcoholic beverages in a sealed
6 container for off-premises consumption if the sale or delivery
7 is accompanied by the sale of food within the same order. Such
8 authorized sale or delivery includes wine-based and liquor-based
9 beverages prepared by the licensee and packaged in a container
10 sealed by the licensee. A licensee under this subparagraph may
11 not sell a bottle of distilled spirits sealed by a manufacturer.
12 Any sale or delivery of malt beverages must comply with the
13 container size, labeling, and filling requirements imposed under

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14 s. 563.06. Any delivery of an alcoholic beverage under this
15 subparagraph must comply with s. 561.57. It is a violation of
16 the prohibition in s. 562.11, to allow any person under the age
17 of 21 to deliver alcoholic beverages on behalf of a vendor. The
18 vendor or the agent or employee of the vendor must verify the
19 age of the person making the delivery of the alcoholic beverage
20 before allowing any person to take possession of an alcoholic
21 beverage for the purpose of making a delivery on behalf of a
22 vendor under this section. A food service establishment granted
23 a special license on or after January 1, 1958, pursuant to
24 general or special law may not operate as a package store and
25 may not sell intoxicating beverages under such license after the
26 hours of serving or consumption of food have elapsed. Failure by
27 a licensee to meet the required percentage of food and
28 nonalcoholic beverage gross revenues during the covered
29 operating period shall result in revocation of the license or
30 denial of the pending license application. A licensee whose
31 license is revoked or an applicant whose pending application is
32 denied, or any person required to qualify on the special license
33 application, is ineligible to have any interest in a subsequent
34 application for such a license for a period of 120 days after
35 the date of the final denial or revocation;

36 5. Any caterer, deriving at least 51 percent of its gross
37 food and beverage revenue from the sale of food and nonalcoholic
38 beverages at each catered event, licensed by the Division of

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39 Hotels and Restaurants under chapter 509. This subparagraph does
40 not apply to a culinary education program, as defined in s.
41 381.0072(2), which is licensed as a public food service
42 establishment by the Division of Hotels and Restaurants and
43 provides catering services. Notwithstanding any law to the
44 contrary, a licensee under this subparagraph shall sell or serve
45 alcoholic beverages only for consumption on the premises of a
46 catered event at which the licensee is also providing prepared
47 food, and shall prominently display its license at any catered
48 event at which the caterer is selling or serving alcoholic
49 beverages. A licensee under this subparagraph shall purchase all
50 alcoholic beverages it sells or serves at a catered event from a
51 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
52 under s. 565.02(1) subject to the limitation imposed in
53 subsection (1), as appropriate. A licensee under this
54 subparagraph may not store any alcoholic beverages to be sold or
55 served at a catered event. Any alcoholic beverages purchased by
56 a licensee under this subparagraph for a catered event that are
57 not used at that event must remain with the customer; provided
58 that if the vendor accepts unopened alcoholic beverages, the
59 licensee may return such alcoholic beverages to the vendor for a
60 credit or reimbursement. Regardless of the county or counties in
61 which the licensee operates, a licensee under this subparagraph
62 shall pay the annual state license tax set forth in s.
63 565.02(1)(b). A licensee under this subparagraph must maintain

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64 for a period of 3 years all records and receipts for each
65 catered event, including all contracts, customers' names, event
66 locations, event dates, food purchases and sales, alcoholic
67 beverage purchases and sales, nonalcoholic beverage purchases
68 and sales, and any other records required by the department by
69 rule to demonstrate compliance with the requirements of this
70 subparagraph. Notwithstanding any law to the contrary, any
71 vendor licensed under s. 565.02(1) subject to the limitation
72 imposed in subsection (1), may, without any additional licensure
73 under this subparagraph, serve or sell alcoholic beverages for
74 consumption on the premises of a catered event at which prepared
75 food is provided by a caterer licensed under chapter 509. If a
76 licensee under this subparagraph also possesses any other
77 license under the Beverage Law, the license issued under this
78 subparagraph may ~~shall~~ not authorize the holder to conduct
79 activities on the premises to which the other license or
80 licenses apply that would otherwise be prohibited by the terms
81 of that license or the Beverage Law. ~~Nothing in~~ This section
82 does not ~~shall~~ permit the licensee to conduct activities that
83 are otherwise prohibited by the Beverage Law or local law. The
84 Division of Alcoholic Beverages and Tobacco is hereby authorized
85 to adopt rules to administer the license created in this
86 subparagraph, to include rules governing licensure,
87 recordkeeping, and enforcement. The first \$300,000 in fees
88 collected by the division each fiscal year pursuant to this

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89 | subparagraph shall be deposited in the Department of Children
90 | and Families' Operations and Maintenance Trust Fund to be used
91 | only for alcohol and drug abuse education, treatment, and
92 | prevention programs. The remainder of the fees collected shall
93 | be deposited into the Hotel and Restaurant Trust Fund created
94 | pursuant to s. 509.072; or

95 | 6. A culinary education program as defined in s.
96 | 381.0072(2) which is licensed as a public food service
97 | establishment by the Division of Hotels and Restaurants.

98 | a. This special license shall allow the sale and
99 | consumption of alcoholic beverages on the licensed premises of
100 | the culinary education program. The culinary education program
101 | shall specify designated areas in the facility where the
102 | alcoholic beverages may be consumed at the time of application.
103 | Alcoholic beverages sold for consumption on the premises may be
104 | consumed only in areas designated under ~~pursuant to~~ s.
105 | 561.01(11) and may not be removed from the designated area. Such
106 | license shall be applicable only in and for designated areas
107 | used by the culinary education program.

108 | b. If the culinary education program provides catering
109 | services, this special license shall also allow the sale and
110 | consumption of alcoholic beverages on the premises of a catered
111 | event at which the licensee is also providing prepared food. A
112 | culinary education program that provides catering services is
113 | not required to derive at least 51 percent of its gross revenue

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114 from the sale of food and nonalcoholic beverages.
115 Notwithstanding any law to the contrary, a licensee that
116 provides catering services under this sub-subparagraph shall
117 prominently display its beverage license at any catered event at
118 which the caterer is selling or serving alcoholic beverages.
119 Regardless of the county or counties in which the licensee
120 operates, a licensee under this sub-subparagraph shall pay the
121 annual state license tax set forth in s. 565.02(1)(b). A
122 licensee under this sub-subparagraph must maintain for a period
123 of 3 years all records required by the department by rule to
124 demonstrate compliance with the requirements of this sub-
125 subparagraph.

126 c. If a licensee under this subparagraph also possesses
127 any other license under the Beverage Law, the license issued
128 under this subparagraph does not authorize the holder to conduct
129 activities on the premises to which the other license or
130 licenses apply that would otherwise be prohibited by the terms
131 of that license or the Beverage Law. ~~Nothing in This~~
132 subparagraph does not shall permit the licensee to conduct
133 activities that are otherwise prohibited by the Beverage Law or
134 local law. Any culinary education program that holds a license
135 to sell alcoholic beverages shall comply with the age
136 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

137 d. The Division of Alcoholic Beverages and Tobacco may
138 adopt rules to administer the license created in this

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139 subparagraph, to include rules governing licensure,
140 recordkeeping, and enforcement.

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

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145 However, any license heretofore issued to any such hotel, motel,
146 motor court, or restaurant or hereafter issued to any such
147 hotel, motel, or motor court, including a condominium
148 accommodation, under the general law may ~~shall~~ not be moved to a
149 new location, such license being valid only on the premises of
150 such hotel, motel, motor court, or restaurant. Licenses issued
151 to hotels, motels, motor courts, or restaurants under the
152 general law and held by such hotels, motels, motor courts, or
153 restaurants on May 24, 1947, shall be counted in the quota
154 limitation contained in subsection (1). Any license issued for
155 any hotel, motel, or motor court under this law shall be issued
156 only to the owner of the hotel, motel, or motor court or, in the
157 event the hotel, motel, or motor court is leased, to the lessee
158 of the hotel, motel, or motor court; and the license shall
159 remain in the name of the owner or lessee so long as the license
160 is in existence. Any special license now in existence heretofore
161 issued under this law cannot be renewed except in the name of
162 the owner of the hotel, motel, motor court, or restaurant or, in
163 the event the hotel, motel, motor court, or restaurant is

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164 leased, in the name of the lessee of the hotel, motel, motor
165 court, or restaurant in which the license is located and must
166 remain in the name of the owner or lessee so long as the license
167 is in existence. Any license issued under this section shall be
168 marked "Special," and nothing herein provided shall limit,
169 restrict, or prevent the issuance of a special license for any
170 restaurant or motel which shall hereafter meet the requirements
171 of the law existing immediately before ~~prior to~~ the effective
172 date of this act, if construction of such restaurant has
173 commenced before ~~prior to~~ the effective date of this act and is
174 completed within 30 days thereafter, or if an application is on
175 file for such special license at the time this act takes effect;
176 and any such licenses issued under this proviso may be annually
177 renewed as now provided by law. Nothing herein prevents an
178 application for transfer of a license to a bona fide purchaser
179 of any hotel, motel, motor court, or restaurant by the purchaser
180 of such facility or the transfer of such license pursuant to
181 law.

182 Section 2. Section 564.09, Florida Statutes, is amended to
183 read:

184 564.09 Restaurants; off-premises consumption of wine.—

185 (1) Notwithstanding any other provision of law, a
186 restaurant licensed to sell wine on the premises may permit a
187 patron to remove one unsealed bottle of wine for consumption off
188 the premises if the patron has purchased a ~~full-course~~ meal

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189 ~~consisting of a salad or vegetable, entree, a beverage, and~~
190 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
191 ~~meal~~ on the restaurant premises. A partially consumed bottle of
192 wine that is to be removed from the premises must be securely
193 resealed by the licensee or its employees before removal from
194 the premises. The partially consumed bottle of wine shall be
195 placed in a bag or other container that is secured in such a
196 manner that it is visibly apparent if the container has been
197 subsequently opened or tampered with, and a dated receipt for
198 the bottle of wine and ~~full-course~~ meal shall be provided by the
199 licensee and attached to the container. If transported in a
200 motor vehicle, the container with the resealed bottle of wine
201 must be placed in a locked glove compartment, a locked trunk, or
202 the area behind the last upright seat of a motor vehicle that is
203 not equipped with a trunk.

204 (2) Notwithstanding any other provision of law, a
205 restaurant licensed to sell wine for consumption on the premises
206 may sell or deliver a manufacturer-sealed bottle of wine, or an
207 individual serving of wine or wine-based beverage prepared by
208 the licensee, for off-premises consumption if the wine is
209 delivered in a container sealed by the licensee and the sale or
210 delivery is accompanied by the purchase of a meal within the
211 same order. Any delivery made under this subsection must comply
212 with s. 561.57. It is a violation of the prohibition in s.
213 562.11 to allow any person under the age of 21 to deliver

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214 alcoholic beverages on behalf of a vendor. The vendor or the
215 agent or employee of the vendor must verify the age of the
216 person making the delivery of the alcoholic beverage before
217 allowing any person to take possession of an alcoholic beverage
218 for the purpose of making a delivery on behalf of a vendor under
219 this section.

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

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

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

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

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

229 (c) May sell or deliver an individual serving of liquor or
230 a liquor-based beverage prepared by the licensee for off-
231 premises consumption if the liquor or liquor-based beverage is
232 in a container sealed by the licensee.

233
234 All sales or deliveries of alcoholic beverages made under
235 paragraph (c) for off-premises consumption must be accompanied
236 by the sale of food within the same order, where the sale of
237 food and nonalcoholic beverages shall account for at least 25
238 percent of the total charge for the order.

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239 (d) Any delivery of an alcoholic beverage under this
240 section must comply with s. 561.57. It is a violation of the
241 prohibition in s. 562.11, to allow any person under the age of
242 21 to deliver alcoholic beverages on behalf of a vendor. The
243 vendor or the agent or employee of the vendor must verify the
244 age of the person making the delivery of the alcoholic beverage
245 before allowing any person to take possession of an alcoholic
246 beverage for the purpose of making a delivery on behalf of a
247 vendor under this section.

248 Section 4. For the purpose of incorporating the amendment
249 made by this act to section 564.09, Florida Statutes, in a
250 reference thereto, subsection (9) of section 316.1936, Florida
251 Statutes, is reenacted and amended to read:

252 316.1936 Possession of open containers of alcoholic
253 beverages in vehicles prohibited; penalties.—

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

257 Section 5. For the purpose of incorporating the amendment
258 made by this act to section 564.09, Florida Statutes, in a
259 reference thereto, section 564.05, Florida Statutes, is
260 reenacted to read:

261 564.05 Limitation of size of individual wine containers;
262 penalty.—It is unlawful for a person to sell within this state
263 wine in an individual container holding more than 1 gallon of

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264 such wine, unless such wine is in a reusable container holding
265 5.16 gallons. However, qualified distributors and manufacturers
266 may sell wine to other qualified distributors or manufacturers
267 in any size container. Except as provided in s. 564.09, wine
268 sold or offered for sale by a licensed vendor to be consumed off
269 the premises shall be in the unopened original container. A
270 person convicted of a violation of this section commits a
271 misdemeanor of the second degree, punishable as provided in s.
272 775.082 or s. 775.083.

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

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Remove lines 6-18 and insert:

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circumstances; requiring a vendor or the agent or employee of

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the vendor to verify the age of the person making the delivery;

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amending s. 564.09, F.S.; revising provisions that authorize a

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restaurant to allow patrons to remove partially consumed bottles

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of wine from a restaurant for off-premises consumption;

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authorizing certain restaurants to sell or deliver wine in

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specified packages under certain circumstances; prohibiting any

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person under the age of 21 to deliver alcoholic beverages on

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behalf of a vendor; requiring a vendor or the agent or employee

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of the vendor to verify the age of the person making the

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delivery; amending s. 565.045, F.S.; revising requirements for

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the sale of alcoholic beverages by certain vendors; authorizing

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289 certain vendors to deliver specified alcoholic beverages and
290 liquor under certain circumstances; prohibiting any person under
291 the age of 21 to deliver alcoholic beverages on behalf of a
292 vendor; requiring a vendor or the agent or employee of the
293 vendor to verify the age of the person making the delivery;
294 reenacting ss. 316.1936(9) and 564.05, F.S., relating to the
295 possession of open containers of alcoholic beverages in vehicles
296 and the limitation of size of individual wine containers,
297 respectively, to incorporate the amendments made to s. 564.09,
298 F.S., in references thereto; providing an effective date.

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