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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 certain alcoholic  
5           beverages for off-premises consumption under certain  
6           circumstances; creating s. 561.575, F.S.; providing  
7           requirements for such establishments to sell alcoholic  
8           beverages for off-premises consumption; requiring that  
9           such alcoholic beverages be transported in a specified  
10          manner; requiring vendors to verify the age of a  
11          person making a delivery of an alcoholic beverage  
12          before such person takes possession of the alcoholic  
13          beverage; providing construction; amending s.  
14          316.1936, F.S.; specifying that certain alcoholic  
15          beverages sold by such establishments are not open  
16          containers for the purposes of the prohibition on  
17          possessing open containers of alcoholic beverages in  
18          vehicles; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Paragraph (a) of subsection (2) of section  
23           561.20, Florida Statutes, is amended to read:

24           561.20 Limitation upon number of licenses issued.—

25           (2)(a) The limitation of the number of licenses as provided  
26           in this section does not prohibit the issuance of a special  
27           license to:

28           1. Any bona fide hotel, motel, or motor court of not fewer  
29           than 80 guest rooms in any county having a population of less

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

52 2. Any condominium accommodation of which no fewer than 100  
53 condominium units are wholly rentable to transients and which is  
54 licensed under chapter 509, except that the license shall be  
55 issued only to the person or corporation that operates the hotel  
56 or motel operation and not to the association of condominium  
57 owners;

58 3. Any condominium accommodation of which no fewer than 50

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59 condominium units are wholly rentable to transients, which is  
60 licensed under chapter 509, and which is located in any county  
61 having home rule under s. 10 or s. 11, Art. VIII of the State  
62 Constitution of 1885, as amended, and incorporated by reference  
63 in s. 6(e), Art. VIII of the State Constitution, except that the  
64 license shall be issued only to the person or corporation that  
65 operates the hotel or motel operation and not to the association  
66 of condominium owners;

67 4. A food service establishment that has 2,500 square feet  
68 of service area, is equipped to serve meals to 150 persons at  
69 one time, and derives at least 51 percent of its gross food and  
70 beverage revenue from the sale of food and nonalcoholic  
71 beverages during the first 60-day operating period and each 12-  
72 month operating period thereafter. A licensee under this  
73 subparagraph may sell or deliver alcoholic beverages for off-  
74 premises consumption pursuant to s. 561.575. A food service  
75 establishment granted a special license on or after January 1,  
76 1958, pursuant to general or special law may not operate as a  
77 package store except as provided in s. 561.575 and may not sell  
78 intoxicating beverages under such license after the hours of  
79 serving or consumption of food have elapsed. Failure by a  
80 licensee to meet the required percentage of food and  
81 nonalcoholic beverage gross revenues during the covered  
82 operating period shall result in revocation of the license or  
83 denial of the pending license application. A licensee whose  
84 license is revoked or an applicant whose pending application is  
85 denied, or any person required to qualify on the special license  
86 application, is ineligible to have any interest in a subsequent  
87 application for such a license for a period of 120 days after

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88 the date of the final denial or revocation;

89 5. Any caterer, deriving at least 51 percent of its gross  
90 food and beverage revenue from the sale of food and nonalcoholic  
91 beverages at each catered event, licensed by the Division of  
92 Hotels and Restaurants under chapter 509. This subparagraph does  
93 not apply to a culinary education program, as defined in s.  
94 381.0072(2), which is licensed as a public food service  
95 establishment by the Division of Hotels and Restaurants and  
96 provides catering services. Notwithstanding any law to the  
97 contrary, a licensee under this subparagraph shall sell or serve  
98 alcoholic beverages only for consumption on the premises of a  
99 catered event at which the licensee is also providing prepared  
100 food, and shall prominently display its license at any catered  
101 event at which the caterer is selling or serving alcoholic  
102 beverages. A licensee under this subparagraph shall purchase all  
103 alcoholic beverages it sells or serves at a catered event from a  
104 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed  
105 under s. 565.02(1) subject to the limitation imposed in  
106 subsection (1), as appropriate. A licensee under this  
107 subparagraph may not store any alcoholic beverages to be sold or  
108 served at a catered event. Any alcoholic beverages purchased by  
109 a licensee under this subparagraph for a catered event that are  
110 not used at that event must remain with the customer; provided  
111 that if the vendor accepts unopened alcoholic beverages, the  
112 licensee may return such alcoholic beverages to the vendor for a  
113 credit or reimbursement. Regardless of the county or counties in  
114 which the licensee operates, a licensee under this subparagraph  
115 shall pay the annual state license tax set forth in s.  
116 565.02(1)(b). A licensee under this subparagraph must maintain

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117 for a period of 3 years all records and receipts for each  
118 catered event, including all contracts, customers' names, event  
119 locations, event dates, food purchases and sales, alcoholic  
120 beverage purchases and sales, nonalcoholic beverage purchases  
121 and sales, and any other records required by the department by  
122 rule to demonstrate compliance with the requirements of this  
123 subparagraph. Notwithstanding any law to the contrary, any  
124 vendor licensed under s. 565.02(1) subject to the limitation  
125 imposed in subsection (1), may, without any additional licensure  
126 under this subparagraph, serve or sell alcoholic beverages for  
127 consumption on the premises of a catered event at which prepared  
128 food is provided by a caterer licensed under chapter 509. If a  
129 licensee under this subparagraph also possesses any other  
130 license under the Beverage Law, the license issued under this  
131 subparagraph shall not authorize the holder to conduct  
132 activities on the premises to which the other license or  
133 licenses apply that would otherwise be prohibited by the terms  
134 of that license or the Beverage Law. Nothing in this section  
135 shall permit the licensee to conduct activities that are  
136 otherwise prohibited by the Beverage Law or local law. The  
137 Division of Alcoholic Beverages and Tobacco is hereby authorized  
138 to adopt rules to administer the license created in this  
139 subparagraph, to include rules governing licensure,  
140 recordkeeping, and enforcement. The first \$300,000 in fees  
141 collected by the division each fiscal year pursuant to this  
142 subparagraph shall be deposited in the Department of Children  
143 and Families' Operations and Maintenance Trust Fund to be used  
144 only for alcohol and drug abuse education, treatment, and  
145 prevention programs. The remainder of the fees collected shall

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146 be deposited into the Hotel and Restaurant Trust Fund created  
147 pursuant to s. 509.072; or

148 6. A culinary education program as defined in s.  
149 381.0072(2) which is licensed as a public food service  
150 establishment by the Division of Hotels and Restaurants.

151 a. This special license shall allow the sale and  
152 consumption of alcoholic beverages on the licensed premises of  
153 the culinary education program. The culinary education program  
154 shall specify designated areas in the facility where the  
155 alcoholic beverages may be consumed at the time of application.  
156 Alcoholic beverages sold for consumption on the premises may be  
157 consumed only in areas designated pursuant to s. 561.01(11) and  
158 may not be removed from the designated area. Such license shall  
159 be applicable only in and for designated areas used by the  
160 culinary education program.

161 b. If the culinary education program provides catering  
162 services, this special license shall also allow the sale and  
163 consumption of alcoholic beverages on the premises of a catered  
164 event at which the licensee is also providing prepared food. A  
165 culinary education program that provides catering services is  
166 not required to derive at least 51 percent of its gross revenue  
167 from the sale of food and nonalcoholic beverages.  
168 Notwithstanding any law to the contrary, a licensee that  
169 provides catering services under this sub-subparagraph shall  
170 prominently display its beverage license at any catered event at  
171 which the caterer is selling or serving alcoholic beverages.  
172 Regardless of the county or counties in which the licensee  
173 operates, a licensee under this sub-subparagraph shall pay the  
174 annual state license tax set forth in s. 565.02(1)(b). A

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175 licensee under this sub-subparagraph must maintain for a period  
176 of 3 years all records required by the department by rule to  
177 demonstrate compliance with the requirements of this sub-  
178 subparagraph.

179 c. If a licensee under this subparagraph also possesses any  
180 other license under the Beverage Law, the license issued under  
181 this subparagraph does not authorize the holder to conduct  
182 activities on the premises to which the other license or  
183 licenses apply that would otherwise be prohibited by the terms  
184 of that license or the Beverage Law. Nothing in this  
185 subparagraph shall permit the licensee to conduct activities  
186 that are otherwise prohibited by the Beverage Law or local law.  
187 Any culinary education program that holds a license to sell  
188 alcoholic beverages shall comply with the age requirements set  
189 forth in ss. 562.11(4), 562.111(2), and 562.13.

190 d. The Division of Alcoholic Beverages and Tobacco may  
191 adopt rules to administer the license created in this  
192 subparagraph, to include rules governing licensure,  
193 recordkeeping, and enforcement.

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

197  
198 However, any license heretofore issued to any such hotel, motel,  
199 motor court, or restaurant or hereafter issued to any such  
200 hotel, motel, or motor court, including a condominium  
201 accommodation, under the general law shall not be moved to a new  
202 location, such license being valid only on the premises of such  
203 hotel, motel, motor court, or restaurant. Licenses issued to

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204 hotels, motels, motor courts, or restaurants under the general  
205 law and held by such hotels, motels, motor courts, or  
206 restaurants on May 24, 1947, shall be counted in the quota  
207 limitation contained in subsection (1). Any license issued for  
208 any hotel, motel, or motor court under this law shall be issued  
209 only to the owner of the hotel, motel, or motor court or, in the  
210 event the hotel, motel, or motor court is leased, to the lessee  
211 of the hotel, motel, or motor court; and the license shall  
212 remain in the name of the owner or lessee so long as the license  
213 is in existence. Any special license now in existence heretofore  
214 issued under this law cannot be renewed except in the name of  
215 the owner of the hotel, motel, motor court, or restaurant or, in  
216 the event the hotel, motel, motor court, or restaurant is  
217 leased, in the name of the lessee of the hotel, motel, motor  
218 court, or restaurant in which the license is located and must  
219 remain in the name of the owner or lessee so long as the license  
220 is in existence. Any license issued under this section shall be  
221 marked "Special," and nothing herein provided shall limit,  
222 restrict, or prevent the issuance of a special license for any  
223 restaurant or motel which shall hereafter meet the requirements  
224 of the law existing immediately prior to the effective date of  
225 this act, if construction of such restaurant has commenced prior  
226 to the effective date of this act and is completed within 30  
227 days thereafter, or if an application is on file for such  
228 special license at the time this act takes effect; and any such  
229 licenses issued under this proviso may be annually renewed as  
230 now provided by law. Nothing herein prevents an application for  
231 transfer of a license to a bona fide purchaser of any hotel,  
232 motel, motor court, or restaurant by the purchaser of such



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233 facility or the transfer of such license pursuant to law.

234 Section 2. Section 561.575, Florida Statutes, is created to  
235 read:

236 561.575 Food service establishments; off-premises  
237 consumption of alcoholic beverages.-

238 (1) Notwithstanding any other law, a public food service  
239 establishment licensed under s. 561.20(2)(a)4. may sell  
240 manufacturer-sealed containers of wine, containers of malt  
241 beverages, or any alcoholic beverage drink prepared by the  
242 vendor, including any wine-based and liquor-based drinks, sold  
243 in containers sealed by the licensee or its employees for  
244 consumption off of the licensed premises if accompanied by the  
245 sale of food within the same order. The container for any  
246 alcoholic beverage sold or delivered for consumption off the  
247 premises pursuant to this section may not exceed 32 ounces. An  
248 alcoholic beverage drink prepared by the vendor and sold or  
249 delivered for consumption off the premises must be securely  
250 sealed by the licensee or its employees with an unbroken seal  
251 that prevents the beverage from being immediately consumed  
252 before removal from the premises. Such alcoholic beverage also  
253 must be placed in a bag or other container that is secured in  
254 such a manner that it is visibly apparent if the container has  
255 been subsequently opened or tampered with, and a dated receipt  
256 for the alcoholic beverage and meal must be provided by the  
257 licensee and attached to the sealed container. If transported in  
258 a motor vehicle, an alcoholic beverage that is not in a  
259 container sealed by the manufacturer must be placed in a locked  
260 compartment, a locked trunk, or the area behind the last upright  
261 seat of a motor vehicle.

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

266       (3) Any delivery of an alcoholic beverage under this  
267 section must comply with s. 561.57. It is a violation of the  
268 prohibition in s. 562.11 to allow any person under the age of 21  
269 to deliver alcoholic beverages on behalf of a vendor. Before  
270 allowing any person to take possession of an alcoholic beverage  
271 for the purpose of making a delivery on behalf of a vendor under  
272 this section, the vendor or the agent or employee of the vendor  
273 must verify the age of the person making the delivery of the  
274 alcoholic beverage.

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

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

281       316.1936 Possession of open containers of alcoholic  
282 beverages in vehicles prohibited; penalties.—

283       (9) A bottle of wine that has been resealed and is  
284 transported pursuant to s. 564.09 or an alcoholic beverage that  
285 has been sealed by a licensee or the employee of a licensee and  
286 is transported pursuant to s. 561.575 is not an open container  
287 under ~~the provisions of~~ this section.

288       Section 4. This act shall take effect July 1, 2021.