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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; providing requirements for such
7 deliveries; requiring a vendor or the agent or
8 employee of the vendor to verify the age of the person
9 making the delivery; amending s. 564.09, F.S.;
10 revising provisions that authorize a restaurant to
11 allow patrons to remove partially consumed bottles of
12 wine from a restaurant for off-premises consumption;
13 amending s. 565.045, F.S.; revising requirements for
14 the sale of alcoholic beverages by certain vendors;
15 authorizing certain vendors to deliver specified
16 alcoholic beverages under certain circumstances;
17 providing requirements for such deliveries;
18 prohibiting any person under the age of 21 from
19 delivering alcoholic beverages on behalf of a vendor;
20 requiring a vendor or the agent or employee of the
21 vendor to verify the age of the person making the
22 delivery; amending s. 316.1936, F.S.; specifying that
23 certain alcoholic beverages are not open containers
24 for the purposes of the prohibition on possessing open
25 containers of alcoholic beverages in vehicles;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Paragraph (a) of subsection (2) of section
31 561.20, Florida Statutes, is amended to read:

32 561.20 Limitation upon number of licenses issued.—

33 (2) (a) The limitation of the number of licenses as provided
34 in this section does not prohibit the issuance of a special
35 license to:

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

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59 laws requiring a greater number of hotel rooms;

60 2. Any condominium accommodation of which no fewer than 100
61 condominium units are wholly rentable to transients and which is
62 licensed under chapter 509, except that the license shall be
63 issued only to the person or corporation that operates the hotel
64 or motel operation and not to the association of condominium
65 owners;

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

75 4. A food service establishment that has 2,500 square feet
76 of service area, is equipped to serve meals to 150 persons at
77 one time, and derives at least 51 percent of its gross food and
78 beverage revenue from the sale of food and nonalcoholic
79 beverages during the first 60-day operating period and each 12-
80 month operating period thereafter. A licensee under this
81 subparagraph may sell or deliver alcoholic beverages in a sealed
82 container for off-premises consumption if the sale or delivery
83 is accompanied by the sale of food within the same order. Such
84 authorized sale or delivery includes wine-based and liquor-based
85 beverages prepared by the licensee or its employee and packaged
86 in a container sealed by the licensee or its employee. This
87 subparagraph may not be construed to authorize public food

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88 service establishments licensed under this subparagraph to sell
89 a bottle of distilled spirits sealed by a manufacturer. Any sale
90 or delivery of malt beverages must comply with the container
91 size, labeling, and filling requirements imposed under s.
92 563.06. Any delivery of an alcoholic beverage under this
93 subparagraph must comply with s. 561.57. An alcoholic beverage
94 drink prepared by the vendor and sold or delivered for
95 consumption off the premises must be placed in a container
96 securely sealed by the licensee or its employees with an
97 unbroken seal that prevents the beverage from being immediately
98 consumed before removal from the premises. Such alcoholic
99 beverage also must be placed in a bag or other container that is
100 secured in such a manner that it is visibly apparent if the
101 container has been subsequently opened or tampered with, and a
102 dated receipt for the alcoholic beverage and food must be
103 provided by the licensee and attached to the bag or container.
104 If transported in a motor vehicle, an alcoholic beverage that is
105 not in a container sealed by the manufacturer must be placed in
106 a locked compartment, a locked trunk, or the area behind the
107 last upright seat of a motor vehicle. It is a violation of the
108 prohibition in s. 562.11 to allow any person under the age of 21
109 to deliver alcoholic beverages on behalf of a vendor. The vendor
110 or the agent or employee of the vendor must verify the age of
111 the person making the delivery of the alcoholic beverage before
112 allowing any person to take possession of an alcoholic beverage
113 for the purpose of making a delivery on behalf of a vendor under
114 this section. A food service establishment granted a special
115 license on or after January 1, 1958, pursuant to general or
116 special law may not operate as a package store and may not sell

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117 intoxicating beverages under such license after the hours of
118 serving or consumption of food have elapsed. Failure by a
119 licensee to meet the required percentage of food and
120 nonalcoholic beverage gross revenues during the covered
121 operating period shall result in revocation of the license or
122 denial of the pending license application. A licensee whose
123 license is revoked or an applicant whose pending application is
124 denied, or any person required to qualify on the special license
125 application, is ineligible to have any interest in a subsequent
126 application for such a license for a period of 120 days after
127 the date of the final denial or revocation;

128 5. Any caterer, deriving at least 51 percent of its gross
129 food and beverage revenue from the sale of food and nonalcoholic
130 beverages at each catered event, licensed by the Division of
131 Hotels and Restaurants under chapter 509. This subparagraph does
132 not apply to a culinary education program, as defined in s.
133 381.0072(2), which is licensed as a public food service
134 establishment by the Division of Hotels and Restaurants and
135 provides catering services. Notwithstanding any law to the
136 contrary, a licensee under this subparagraph shall sell or serve
137 alcoholic beverages only for consumption on the premises of a
138 catered event at which the licensee is also providing prepared
139 food, and shall prominently display its license at any catered
140 event at which the caterer is selling or serving alcoholic
141 beverages. A licensee under this subparagraph shall purchase all
142 alcoholic beverages it sells or serves at a catered event from a
143 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
144 under s. 565.02(1) subject to the limitation imposed in
145 subsection (1), as appropriate. A licensee under this

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146 subparagraph may not store any alcoholic beverages to be sold or
147 served at a catered event. Any alcoholic beverages purchased by
148 a licensee under this subparagraph for a catered event that are
149 not used at that event must remain with the customer; provided
150 that if the vendor accepts unopened alcoholic beverages, the
151 licensee may return such alcoholic beverages to the vendor for a
152 credit or reimbursement. Regardless of the county or counties in
153 which the licensee operates, a licensee under this subparagraph
154 shall pay the annual state license tax set forth in s.
155 565.02(1)(b). A licensee under this subparagraph must maintain
156 for a period of 3 years all records and receipts for each
157 catered event, including all contracts, customers' names, event
158 locations, event dates, food purchases and sales, alcoholic
159 beverage purchases and sales, nonalcoholic beverage purchases
160 and sales, and any other records required by the department by
161 rule to demonstrate compliance with the requirements of this
162 subparagraph. Notwithstanding any law to the contrary, any
163 vendor licensed under s. 565.02(1) subject to the limitation
164 imposed in subsection (1), may, without any additional licensure
165 under this subparagraph, serve or sell alcoholic beverages for
166 consumption on the premises of a catered event at which prepared
167 food is provided by a caterer licensed under chapter 509. If a
168 licensee under this subparagraph also possesses any other
169 license under the Beverage Law, the license issued under this
170 subparagraph may ~~shall~~ not authorize the holder to conduct
171 activities on the premises to which the other license or
172 licenses apply that would otherwise be prohibited by the terms
173 of that license or the Beverage Law. ~~Nothing in~~ This section
174 does not ~~shall~~ permit the licensee to conduct activities that

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175 are otherwise prohibited by the Beverage Law or local law. The
176 Division of Alcoholic Beverages and Tobacco is hereby authorized
177 to adopt rules to administer the license created in this
178 subparagraph, to include rules governing licensure,
179 recordkeeping, and enforcement. The first \$300,000 in fees
180 collected by the division each fiscal year pursuant to this
181 subparagraph shall be deposited in the Department of Children
182 and Families' Operations and Maintenance Trust Fund to be used
183 only for alcohol and drug abuse education, treatment, and
184 prevention programs. The remainder of the fees collected shall
185 be deposited into the Hotel and Restaurant Trust Fund created
186 pursuant to s. 509.072; or

187 6. A culinary education program as defined in s.
188 381.0072(2) which is licensed as a public food service
189 establishment by the Division of Hotels and Restaurants.

190 a. This special license shall allow the sale and
191 consumption of alcoholic beverages on the licensed premises of
192 the culinary education program. The culinary education program
193 shall specify designated areas in the facility where the
194 alcoholic beverages may be consumed at the time of application.
195 Alcoholic beverages sold for consumption on the premises may be
196 consumed only in areas designated under ~~pursuant to~~ s.
197 561.01(11) and may not be removed from the designated area. Such
198 license shall be applicable only in and for designated areas
199 used by the culinary education program.

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

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

207 Notwithstanding any law to the contrary, a licensee that
208 provides catering services under this sub-subparagraph shall
209 prominently display its beverage license at any catered event at
210 which the caterer is selling or serving alcoholic beverages.
211 Regardless of the county or counties in which the licensee
212 operates, a licensee under this sub-subparagraph shall pay the
213 annual state license tax set forth in s. 565.02(1)(b). A
214 licensee under this sub-subparagraph must maintain for a period
215 of 3 years all records required by the department by rule to
216 demonstrate compliance with the requirements of this sub-
217 subparagraph.

218 c. If a licensee under this subparagraph also possesses any
219 other license under the Beverage Law, the license issued under
220 this subparagraph does not authorize the holder to conduct
221 activities on the premises to which the other license or
222 licenses apply that would otherwise be prohibited by the terms
223 of that license or the Beverage Law. ~~Nothing in This~~
224 subparagraph does not ~~shall~~ permit the licensee to conduct
225 activities that are otherwise prohibited by the Beverage Law or
226 local law. Any culinary education program that holds a license
227 to sell alcoholic beverages shall comply with the age
228 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

229 d. The Division of Alcoholic Beverages and Tobacco may
230 adopt rules to administer the license created in this
231 subparagraph, to include rules governing licensure,
232 recordkeeping, and enforcement.

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

236
237 However, any license heretofore issued to any such hotel, motel,
238 motor court, or restaurant or hereafter issued to any such
239 hotel, motel, or motor court, including a condominium
240 accommodation, under the general law may ~~shall~~ not be moved to a
241 new location, such license being valid only on the premises of
242 such hotel, motel, motor court, or restaurant. Licenses issued
243 to hotels, motels, motor courts, or restaurants under the
244 general law and held by such hotels, motels, motor courts, or
245 restaurants on May 24, 1947, shall be counted in the quota
246 limitation contained in subsection (1). Any license issued for
247 any hotel, motel, or motor court under this law shall be issued
248 only to the owner of the hotel, motel, or motor court or, in the
249 event the hotel, motel, or motor court is leased, to the lessee
250 of the hotel, motel, or motor court; and the license shall
251 remain in the name of the owner or lessee so long as the license
252 is in existence. Any special license now in existence heretofore
253 issued under this law cannot be renewed except in the name of
254 the owner of the hotel, motel, motor court, or restaurant or, in
255 the event the hotel, motel, motor court, or restaurant is
256 leased, in the name of the lessee of the hotel, motel, motor
257 court, or restaurant in which the license is located and must
258 remain in the name of the owner or lessee so long as the license
259 is in existence. Any license issued under this section shall be
260 marked "Special," and nothing herein provided shall limit,
261 restrict, or prevent the issuance of a special license for any

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262 restaurant or motel which shall hereafter meet the requirements
263 of the law existing immediately before ~~prior to~~ the effective
264 date of this act, if construction of such restaurant has
265 commenced before ~~prior to~~ the effective date of this act and is
266 completed within 30 days thereafter, or if an application is on
267 file for such special license at the time this act takes effect;
268 and any such licenses issued under this proviso may be annually
269 renewed as now provided by law. Nothing herein prevents an
270 application for transfer of a license to a bona fide purchaser
271 of any hotel, motel, motor court, or restaurant by the purchaser
272 of such facility or the transfer of such license pursuant to
273 law.

274 Section 2. Section 564.09, Florida Statutes, is amended to
275 read:

276 564.09 Restaurants; off-premises consumption of wine.-
277 Notwithstanding any other provision of law, a restaurant
278 licensed to sell wine on the premises may permit a patron to
279 remove one unsealed bottle of wine for consumption off the
280 premises if the patron has purchased a ~~full-course~~ meal
281 ~~consisting of a salad or vegetable, entree, a beverage, and~~
282 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
283 ~~meal~~ on the restaurant premises. A partially consumed bottle of
284 wine that is to be removed from the premises must be securely
285 resealed by the licensee or its employees before removal from
286 the premises. The partially consumed bottle of wine shall be
287 placed in a bag or other container that is secured in such a
288 manner that it is visibly apparent if the container has been
289 subsequently opened or tampered with, and a dated receipt for
290 the bottle of wine and ~~full-course~~ meal shall be provided by the

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291 licensee and attached to the container. If transported in a
292 motor vehicle, the container with the resealed bottle of wine
293 must be placed in a locked glove compartment, a locked trunk, or
294 the area behind the last upright seat of a motor vehicle that is
295 not equipped with a trunk.

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

298 565.045 Regulations for consumption on premises; penalty;
299 exemptions.—

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

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

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

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

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

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

314 3. The charge for the sale of food and nonalcoholic
315 beverages must be at least 40 percent of the total charge for
316 the order, excluding the charge for any manufacturer-sealed
317 containers of alcoholic beverages included in the order; and

318 4. Sales and deliveries of the alcoholic beverages may not
319 occur after the vendor ceases preparing food on the licensed

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320 premises for the day or after midnight, whichever is earlier.

321

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

324 (d) An alcoholic beverage drink prepared by the vendor and
325 sold or delivered for consumption off the premises under
326 paragraph (c) must be placed in a container securely sealed by
327 the licensee or its employees with an unbroken seal that
328 prevents the beverage from being immediately consumed before
329 removal from the premises. Such alcoholic beverage also must be
330 placed in a bag or other container that is secured in such a
331 manner that it is visibly apparent if the container has been
332 subsequently opened or tampered with, and a dated receipt for
333 the alcoholic beverage and food must be provided by the licensee
334 and attached to the bag or container. If transported in a motor
335 vehicle, an alcoholic beverage that is not in a container sealed
336 by the manufacturer must be placed in a locked compartment, a
337 locked trunk, or the area behind the last upright seat of a
338 motor vehicle.

339 (e) Any delivery of an alcoholic beverage under this
340 section must comply with s. 561.57. It is a violation of the
341 prohibition in s. 562.11 to allow any person under the age of 21
342 to deliver alcoholic beverages on behalf of a vendor. The vendor
343 or the agent or employee of the vendor must verify the age of
344 the person making the delivery of the alcoholic beverage before
345 allowing any person to take possession of an alcoholic beverage
346 for the purpose of making a delivery on behalf of a vendor under
347 this section.

348 Section 4. Subsection (9) of section 316.1936, Florida

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349 Statutes, is amended to read:

350 316.1936 Possession of open containers of alcoholic
351 beverages in vehicles prohibited; penalties.—

352 (9) An alcoholic beverage that has been sealed by a
353 licensee or the employee of a licensee and is transported
354 pursuant to s. 564.09, s. 561.20(2)(a)4., or s. 565.045(1) A
355 ~~bottle of wine that has been resealed and is transported~~
356 ~~pursuant to s. 564.09~~ is not an open container under the
357 ~~provisions of this section.~~

358 Section 5. This act shall take effect July 1, 2021.